

## Request for Reconsideration after Final Action

The table below presents the data as entered.

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SERIAL NUMBER	77750175
LAW OFFICE ASSIGNED	LAW OFFICE 110
MARK SECTION (no change)	
ARGUMENT(S)	
<p style="text-align: right;"><b>IN THE UNITED STATES PATENT AND</b></p> <p>Applicant: I-Site, Inc. Mark: I-SITE Serial No.: 77/750,175 Filed: June 2, 2009 Class: 35, 42 Attorney Docket No.: 09-40122US</p> <hr/> <p>Commissioner for Trademarks P.O. Box 1451 Alexandria, VA 22313-1451</p> <p style="text-align: right;"><b><u>RESPONSE AND REQUEST FOR RI</u></b></p> <p>Dear Sir:</p> <p>In response to the Final Office Action mailed March 9, 2012, Applicant respectfully requests recons</p> <p>Applicant has further filed an Amendment to Allege Use concurrently herewith, as well as a Notice</p> <p style="text-align: right;"><b><u>REMARKS</u></b></p> <p><b>1. <u>Prior Rejection of Recitation of Services</u></b></p> <p>Applicant notes with appreciation the Examining Attorney's acceptance of the recitations of service</p>	

**2. Section 2(d) - Likelihood of Confusion With Respect to Class 35**

Applicant notes with appreciation the Examining Attorney's withdrawal of the rejection under Section 2(d).

**3. Section 2(d) – Likelihood of Confusion With Respect to Class 42**

In the present Office Action, the Examiner has maintained the rejection of the applied for mark with the applied for mark is likely to be confused with U.S. Registration No. 2,681,143 for the mark I-SIGHT. In similarity of the marks, while denigrating the other factors associated with a proper analysis under the *DuPont* conclusion, for the reasons presented below, and accordingly herein traverses the rejection. Applicant has traversed the present mark as used in association with the Class 42 recitation.

**A. The DuPont Factors**

The Examining Attorney founds the present rejection on the mischaracterization that “the marks are identical.” Applicant does not dispute that the services of the relevant parties are related, the characterization that the marks are ‘identical’ which at a minimum mandate taking into consideration the appearance, sound, connotation and commercial impression. The following factors are considered:

1. The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation, and commercial impression.
2. The similarity or dissimilarity of and nature of the goods or services as described in an applicant's identification.
3. The similarity or dissimilarity of established, likely-to-continue trade channels.
4. The conditions under which and buyers to whom sales are made, i.e. "impulse" vs. careful, sophisticated.
5. The fame of the prior mark (sales, advertising, length of use).
6. The number and nature of similar marks in use on similar goods.
7. The nature and extent of any actual confusion.
8. The length of time during and conditions under which there has been concurrent use without confusion.
9. The variety of goods on which a mark is or is not used (house mark, "family" mark, product line).
10. The market interface between applicant and the owner of a prior mark:
  - (a) a mere "consent" to register or use.
  - (b) agreement provisions designed to preclude confusion, i.e. limitations on continued use of the mark.
  - (c) assignment of mark, application, registration and good will of the related business.
  - (d) laches and estoppel attributable to owner of prior mark and indicative of lack of confusion.
11. The extent to which applicant has a right to exclude others from use of its mark on its goods.

12. The extent of potential confusion, i.e., whether *de minimis* or substantial.
13. Any other established fact probative of the effect of use.

*In re. E.I. DuPont de Nemours & Co.*, 476 F.2d 1357, 117 USPQ 563 (C.C.P.A. 1973); *Trademark Manual*

These factors are not absolutes, i.e., not every factor is relevant, however they provide the proper framework for weighing the likelihood that consumers would be confused. Factors 6 and 11 do not provide an absolute measure, but rather a guide for weighing the likelihood that consumers would be confused by the similarity of the marks. Factors 6 and 11 are similar to factor 1, but factor 1 is more important than factors 6 and 11. Factors 6 and 11 are also similar to each other, but factor 6 is more important than factor 11.

### B. The Similarity of the Marks

The keystone of the Examining Attorney’s rejection continues to be that the marks are “essentially meaning, and commercial impression differences between the marks. While Applicant does not dispute the in view of the countervailing factors, to conclude that a likelihood of confusion is present between the respo

**1. With Respect to Phonetic Similarity. sÄ«t\ Alone is Weak as a Distinguishing Feature**

That “I-SITE” and “I-SIGHT” are pronounced similarly is not disputed. The strength and significance of the *Dupont* factors, is.

At the outset, it is extremely significant that marks pronounced \E~Ä«-E~EsÄ«t\, including the term subsisting registrations, and a further pending application.[1] The TESS page for these registrations is attached to the pronounciation, whether the hyphen is included or not. These variations further include:

I-SIGHT	I-CITE	I-CYTE	I-SITE
EYE-SIGHT	EYE-CITE	EYE-CYTE	EYE-SITE

While not all of these are the subject of extensive trademark usage, the I-Sight term of the asserted registrations including the same term[2]), and the same term, without the hyphen, is the subject of a further the same term) (See Exhibits B and C, attached hereto). “iCite” is included in two now cancelled registrations D, attached hereto.) “iCyte” is included in five subsisting registrations, to two separate registrants (See Exhibit E, attached hereto). “iCite” is included in five subsisting registrations, to two separate registrants (See Exhibit F, attached hereto). “Eyecite” was included in one now cancelled registration registrations to three separate registrants(as well as another now cancelled registration including the same term).

registrations (as well as three now cancelled registrations including the same term) (See Exhibit I, attached hereto) and two now cancelled registrations including the same term) (See Exhibit J, attached hereto). While this list is having the \E^Ä«-EÇsÄ«t\ pronunciation, it clearly demonstrates that a large number of differing marks with the same pronunciation is at best a weak element with respect to the trademark significance of the marks.

Accordingly, while a phonetic similarity is present between Applicant's mark and the asserted registrations, it cannot be dispositive of the analysis under the *Dupont* factors.

## **2. The Appearances of the Marks Differ**

The Examining Attorney further posited that the presence of the "i" formative as a prefix to both marks above, at least 25 subsisting registrations include the "i" prefix, such that it alone is at best a weak element. The marks alone constitute a distinguishing element. See *In re Zanova, Inc.*, 59 USPQ2d 1300 (TTAB 2000) (ITOOL and ITOOL designing websites for others).

Contrarily, the applied for mark is "I-SITE", while the registered marks is for "I-SIGHT". When the marks are spelled differently, and that the impact of that difference in spelling creates a much shorter mark, which in turn has different meanings and connotations of the mark, clearly does not support a likelihood of confusion between the marks.

Accordingly, the visual differences between the marks when properly evaluated, in view of the weak element, weighs against the marks being considered sufficiently similar.

## **3. The Meanings of the Marks Differ**

As noted, there are several terms with similar phonetic sounds, yet each of these terms have different meanings. For example, "Sight", <http://www.merriam-webster.com/dictionary/sight> (A copy of which is attached hereto as Exhibit I); "cite", Merriam Webster Definition of "cite", <http://www.merriam-webster.com/dictionary/cite> (A copy of which is attached hereto as Exhibit J) having the meaning of cell or cellular. See, e.g., Merriam Webster Definition of "cyte", <http://www.merriam-webster.com/dictionary/cyte>. Finally, "site" has the commonly understood definition of a place or a location, i.e., the site of a new building. <http://www.merriam-webster.com/dictionary/site> (A copy of which is attached hereto as Exhibit N).

The cited registration includes the formative "sight", meaning a visual event, while "site" clearly has a different meaning. The marks are clearly distinct and create different mental impressions, as a result of the different meanings and connotations. Consumers are highly sensitized to key on differences in the marks to discriminate between them, otherwise



pronunciations would have resulted in chaos. Accordingly, the distinction between the marks as a result of similar.

#### **4. The Commercial Impressions of the Mark Differ**

As a result of the differences in the meanings of the applied for mark and the mark of the cited registrant, “sight” refers to vision, i.e., a clear ability to see. “Site”, contrarily, refers to a location or place, and is free. The distinction between the commercial impressions created by the respective marks clearly weighs against the

#### **5. Evaluation of the Similarity, Meaning, and Commercial Impression Factors Does Not Suggest that the Marks Are “Similar”**

##### **in the Context of a Likelihood of Confusion Analysis.**

As discussed above, the marks clearly have different meanings and commercial impressions. While the result of the plethora of visual impressions is that the marks are distinct as a result of the length of the domain names, the analysis of the “i” prefix, and the differing reactions to the marks imposed by the differing meanings. Accordingly, there is no likelihood of confusion between the marks.

#### **C. The Dis-Similarity of the Recited Services**

The asserted ‘143 I-SIGHT registration extends over three classes, class 009 for software (and related services). Applicant’s mark is used in both class 035, for providing marketing services, and in class 042, for

With respect to Class 042, the asserted registration contains the recitation “computer software, hardware and software problems via telephone, e-mail and in-person; database development services.” Applicant’s mark is used in both class 035, for providing marketing services, and in class 042, for

While on its face, these services are clearly related, it is also clear that the writing of software, even when compared to the comparison point between the marks, for the very reason that so many companies exist which write software (and many of which use some form of the phonetically pronounced “eye sight” for their services), many of which use some form of the phonetically pronounced “eye sight” for their services. The specimens associated with the asserted ‘143 I-SIGHT registration demonstrates that the only services associated with the asserted ‘143 I-SIGHT registration, is: “Customization i-Sight™ is a very flexible system that can accommodate specific requirements that are not currently available, Customer Expressions can quickly customize i-Sight™ to meet your specific requirements. Accordingly, consumers are unlikely to be confused as to source or affiliation between Applicant’s development of software and the registrant offers nothing other than modification of Registrant’s existing software packages, used in the recitation. Thus, the purported relatedness of the goods does not weigh for a finding of a likelihood of confusion. No likelihood of confusion would be present.

#### **D. The Dissimilarity Between the Channels of Trade**

Again, and as discussed above, the products of the '143 I-SIGHT registration are focused on custom accomplishing customer satisfaction research (albeit with the option of having the purchased software customized programs and applications for others, and accordingly, is directed towards entities needing custom software for its clients who have already purchased its customer satisfaction management software. Thus, the registrations differ significantly, and this factor again weighs against a finding of a likelihood of confusion.

**E. The Sophistication of the Consumers**

Contrary to the assertions of the Examining Attorney, consumers of the respective services of Applicant are not experts in trademark law, there is nothing to suggest that they do not spend significant time considering the difference in the character of the two businesses demonstrates that these sophisticated purchasers would not be confused by other offers customization of its existing customer satisfaction management software. It would clearly be a difference in the marks themselves, but in the differences of the services actually offered. Again, this factor weighs against a finding of a likelihood of confusion.

**F. The Degree of Care Expected to be Exercised by Consumers**

It is clear that both the software packages offered by registrant, as well as the software writing services, are complex and costly. Thus, consumers of the respective goods and services may be readily presumed to exercise due care in selecting software development from. Again, in view of the differences of the marks, this factor weighs against a finding of a likelihood of confusion.

### **G. The Fame, or Lack Thereof, of the Cited Registration**

No evidence is of record of the fame of the asserted registration. While the registration itself demonstrates any strong consumer association or recognition. In the absence of any such evidence, no analysis of this fact for or against a likelihood of confusion.

### **H. A Plethora of Similar Marks are Both In Use and Have Been in Use on**

Consideration of the plethora of similar marks in use on similar services is critical to proper evaluation of the goods and related services, it must be presumed that the scope of recognition of consumers of one particular mark is based on a presumption that consumers already distinguish between those marks.

At the outset, it must be noted that the Examining Attorney takes the position that the existence of evidence of software writing services demonstrates the relatedness of the goods and services. Final Office Action, pg. 10. In evaluating the goods and services of the respective application and asserted registration, the Examining Attorney does not make a pronouncement. Indeed, the Examining Attorney states “This evidence establishes that the same entity provides computer troubleshooting, and database development, under the same mark, through the same channels of trade and commerce as the third party registrations previously cited. Applicant further believes that the purported distinction with the third party registrations in class 042 is illusory. Software, whether written then sold, or sold then written, or provided as download, is provided by a software developer or a programmer. That the same party frequently provides both software as a good, as well as a service, is a registration which notes that it provides customization of the software it sells. Other evidence of this relatedness includes both software as a good and software design as a service (attached hereto as Exhibit P), U.S. Trademark Registration Ser. No. 3,912,116 for software design as a service (attached hereto as Exhibit Q), U.S. Trademark Registrations Ser. No. 3,912,116 for software design as a service (attached hereto as Exhibits R and S), U.S. Trademark Registration Ser. No. 4,197,116 for software design as a service (attached hereto as Exhibit T), etc.

Indeed, the trademark office now recognizes two additional forms of software, software as a service and software. While these remain variations on delivery of a software product, these “new” recitations are classified by their delivery method, may be classed in either class 009 or class 042, and as shown in U.S. Reg. 4,197,116 for “Tree Design” (Exhibit W, attached hereto); see also U.S. Reg. No. 4,196,809 for “Tree Design” (Exhibit W, attached hereto); *see also* U.S. Reg. No. 4,191,656 for SNAP LOGIC (Exhibit Z, attached hereto). That these forms of software originate from someone writing software. Accordingly, denigrating the third party usages previously cited in class 042 is inapt.

U.S. Reg. No. 2,352,200 for ISITE (a copy of which is attached hereto as Exhibit AA) for **comput**

date of the asserted registration. Notwithstanding the overlap in class 009 software, nor the relatedness of s have co-existed for approximately 12 years, further conditioning consumers to distinguish between \E^Ä«-l

U.S. Reg. No. 2,753,458 for ISITE (a copy of which is attached hereto as Exhibit AB) for **user inte** of the asserted registration. Notwithstanding the similarity in Class 009 software, nor the relatedness of sof and the usages have co-existed for approximately 12 years, further conditioning consumers to distinguish b

U.S. Registrations No. 2,942,627 for ICITE and No. 2,940,557 for “iCite” (Design) (copies of wh were registered in spite of the existence of the asserted registration. Based on the Examining Attorney’s ea development, but identical to the “database development services” in the asserted registration. Yet the reg seen as likely to be confused with the asserted “I-SIGHT” registration. These registrations co-existed with consumers to distinguish between \E^Ä«-EÆsÄ«t\ pronounced marks.

U.S. Reg. Nos. 3,976,295 for ICYTE (a copy of which is attached hereto as Exhibit AE) for provid **software** (a copy of which is attached hereto as Exhibit AF), 3,706,744 for “iCyte” (design) for providing for “iCyte” (design) for **computer software** (a copy of which is attached hereto as Exhibit AH) for compu after the registration date of the asserted registration. Notwithstanding the similarity in Class 042 software, software itself, the asserted registrations were registered, and the usages have co-existed for approximately pronounced marks.

While the grant of a registration to other marks does not give rise to a per se argument of registrabil does at a minimum demonstrate the conditioning of consumers, in this case with respect to phonetic similar with respect to goods in class 009, yet they all registered notwithstanding the existences of each other, and above are not the only co-existing registrations, as discussed in Applicant’s prior Response, and accordingl of the marks is not relevant let alone dispositive of the likelihood of confusion analysis, especially as each identical services. Thus, the only purported point of similarity, i.e., the phonetic similarity, is not controllin existed for a long time, demonstrating that consumers do not consider the pronunciation alone when consid well as the differences in meaning and commercial impression, as the only point of similarity is the indistin many the factor weighs against a potential likelihood of confusion.

#### **I. There has Been No Actual Confusion,**

##### **in Almost Twelve Years of Concurrent Use**

As noted in the attached declaration, Applicant has been in business and using its mark openly and 1 *See also* Amendment to Allege Use (attached hereto as Exhibit AK). Applicant registered its domain nam Mr. Cross, the chief executive officer of Applicant since its inception, is aware of no instances of actual co

mark in 2000, twelve years ago, and four years after I-Site began using its mark.

The coexistence of the marks in the marketplace for twelve years clearly demonstrates the absence of a likelihood of confusion. The fact that the marks coexisted, with no disputes against each other, clearly demonstrates the absence of a likelihood of confusion, especially in the case of two well-known, highly pronounced marks.

**J. The Extent to Which Registrant Can Exclude Others from Using  
Pronounced Marks is Severely Constrained by the Plethora of  
Pronounced Marks in the Marketplace**

As noted above, a plethora of marks using the “I-SIGHT” pronunciation for similar or identical goods and services to those of Registrant’s I-SIGHT mark, and accordingly rules of seniority preclude Registrant from asserting that its I-SIGHT mark has acquired distinctiveness. I-SIGHT has now been in use for such long times that equity would preclude Registrant from preventing their continued use of the I-SIGHT mark and the asserted registration, while Applicant cannot cancel the asserted registration, Registrant would be precluded from asserting that its I-SIGHT mark has acquired distinctiveness. Contrarily, Applicant would be precluded from enjoining Registrant, likewise under rules of equity in view of the long use of the I-SIGHT mark and the asserted registration, and the evidence is heavily against the potential for a likelihood of confusion.

## K. Proper Weighing of the Factors

### Precludes the Conclusion That Confusion is Likely

Thus, in view of the above, and the arguments raised in the prior responses, it is clear that proper weight should be given to the evidence of confusion, and accordingly, Applicant believes the present application is in condition for allowance. The weakness of the evidence of confusion clearly mandate the conclusion that the differences in visual presentation, meaning, and commercial impression of the two marks are not confusingly similar to the hearing. The dissimilarity between the channels of trade, and the expected source of the two marks, clearly support the conclusion to apply in deciding whether to purchase customer satisfaction research software, or to have a custom computer program developed for the hearing. The dissimilarity between the marks is unlikely. Furthermore, the simple fact that no actual confusion has arisen in the twelve years since the marks were first used in the marketplace is present.

While the Examining Attorney has relied on the contention that any doubt as to registrability is weighed in the balance against the public interest, it is inequitable here, where Applicant's belief that no confusion was likely weighed in their decision not to object was the senior user. Allowing registrant to take advantage of this belief, to their own advantage, is contrary to the policy behind the presumption, and thus the presumption is inapt here.

## CONCLUSION

Based on the above factors, Applicant respectfully submits that Applicant's mark will not like requests the Examining Attorney withdraw his refusal to register Applicant's mark under Section 2(d) and f courtesy of a telephone interview should the Examining Attorney have any additional questions with respect

[1] Applicant notes that while the Examining Attorney will challenge the relevance of these registration that forms of marks having the common \E^Ä«-EÆsÄ«t\ pronunciation for the similar or the same goo

[2] While the cancelled registrations do not evidence present co-existence, they evidence both that such discriminate between the marks through exposure to them.

[ 3 ] Indeed, the Examining Attorney rejected the submitted specimens as not demonstrating use of the ma describing the creation of a “process map” constituted “computer software design for others”, evidencing

[4] Registrant remains free to oppose Applicant’s application once the application has been published, h likelihood of confusion, or a concurrent use proceeding, resulting in reformation of the recitation contain

## EVIDENCE SECTION

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<b>DESCRIPTION OF EVIDENCE FILE</b>	Exhibits A - F Exhibits G - M Exhibits
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<b>RESPONSE SIGNATURE</b>	/Carl H. Pierce/
<b>SIGNATORY'S NAME</b>	Carl H. Pierce
<b>SIGNATORY'S POSITION</b>	Attorney of Record, PA Bar Member
<b>SIGNATORY'S PHONE NUMBER</b>	215-851-8100
<b>DATE SIGNED</b>	09/10/2012
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Mon Sep 10 18:35:07 EDT 2012
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**Request for Reconsideration after Final Action  
To the Commissioner for Trademarks:**

Application serial no. **77750175** has been amended as follows:

## **ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

### **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: I-Site, Inc.  
Mark: I-SITE  
Serial No.: 77/750,175  
Filed: June 2, 2009  
Class: 35, 42  
Attorney Docket No.: 09-40122US

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Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

### **RESPONSE AND REQUEST FOR RECONSIDERATION**

Dear Sir:

In response to the Final Office Action mailed March 9, 2012, Applicant respectfully requests reconsideration of the above identified application and responds as follows.

Applicant has further filed an Amendment to Allege Use concurrently herewith, as well as a Notice of Appeal. A copy of the Amendment to Allege Use is included herein as Exhibit AK.

### **REMARKS**

#### **1. Prior Rejection of Recitation of Services**

Applicant notes with appreciation the Examining Attorney's acceptance of the recitations of services for the present application as previously amended by Applicant.

#### **2. Section 2(d) - Likelihood of Confusion With Respect to Class 35**

Applicant notes with appreciation the Examining Attorney's withdrawal of the rejection under Section 2(d) of the Lanham with respect to Class 035 of the present mark.

**3.           Section 2(d) – Likelihood of Confusion With Respect to Class 42**

In the present Office Action, the Examiner has maintained the rejection of the applied for mark with respect to International Class 042 under Section 2(d) of the Lanham Act, asserting that the applied for mark is likely to be confused with U.S. Registration No. 2,681,143 for the mark I-SIGHT. In support of this contention, the Examining Attorney relies heavily on the phonetic similarity of the marks, while denigrating the other factors associated with a proper analysis under the *DuPont* factors. Applicant strongly disagrees with the Examining Attorney's analysis and conclusion, for the reasons presented below, and accordingly herein traverses the rejection. Applicant has further concurrently submitted a Notice of Appeal with respect to the rejection of the present mark as used in association with the Class 42 recitation.

**A.       The DuPont Factors**

The Examining Attorney founds the present rejection on the mischaracterization that "the marks are essentially identical and the services are identical or closely related." While Applicant does not dispute that the services of the relevant parties are related, the characterization that the marks are "essentially identical" is erroneous, and ignores the strictures of the *DuPont* factors, which at a minimum mandate taking into consideration the appearance, sound, connotation and commercial impression before any similarity of the marks can be found. The *DuPont* factors are as follows:

1. The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression.
2. The similarity or dissimilarity of and nature of the goods or services as described in an application or registration or in connection with which a prior mark is in use.
3. The similarity or dissimilarity of established, likely-to-continue trade channels.
4. The conditions under which and buyers to whom sales are made, i.e. "impulse" vs. careful, sophisticated purchasing.
5. The fame of the prior mark (sales, advertising, length of use).
6. The number and nature of similar marks in use on similar goods.
7. The nature and extent of any actual confusion.
8. The length of time during and conditions under which there has been

concurrent use without evidence of actual confusion.

9. The variety of goods on which a mark is or is not used (house mark, "family" mark, product mark).

10. The market interface between applicant and the owner of a prior mark:

(a) a mere "consent" to register or use.

(b) agreement provisions designed to preclude confusion, i.e. limitations on continued use of the marks by each party.

(c) assignment of mark, application, registration and good will of the related business.

(d) laches and estoppel attributable to owner of prior mark and indicative of lack of confusion.

11. The extent to which applicant has a right to exclude others from use of its mark on its goods.

12. The extent of potential confusion, i.e., whether *de minimis* or substantial.

13. Any other established fact probative of the effect of use.

*In re. E.I. DuPont de Nemours & Co.*, 476 F.2d 1357, 117 USPQ 563 (C.C.P.A. 1973); *Trademark Manual of Examining Procedure* §1207.01.

These factors are not absolutes, i.e., not every factor is relevant, however they provide the proper framework under which likelihood of confusion analysis is to be performed. The factors do not provide an absolute measure, but rather a guide for weighing the likelihood that consumers would be confused between the competing marks, and indeed, several factors inform other factors, such as factors 6 (the extent to which similar marks are in use on similar goods) and 11 (the extent to which use of the mark can be enjoined) informing whether the marks are perceived as similar with respect to factor 1.

## **B. The Similarity of the Marks**

The keystone of the Examining Attorney's rejection continues to be that the marks are "essentially identical", in that they present the same pronunciation, notwithstanding the visual, meaning, and commercial impression differences between the marks. While Applicant does not dispute the similarity in pronunciation, Applicant stresses that that similarity alone is insufficient, in view of the countervailing factors, to conclude that a likelihood of confusion is present between the respective marks.

### **1. With Respect to Phonetic Similarity. sÄ«t\ Alone is Weak as a Distinguishing Feature**

That "I-SITE" and "I-SIGHT" are pronounced similarly is not disputed. The strength and significance of this similarity, and the weight to which it is entitled to consideration under the *Dupont*

factors, is.

At the outset, it is extremely significant that marks pronounced \E^Ä«-ËEsÄ«t\ , including the term “eyesight” are plentiful in the marketplace. “Eyesight” itself is included in seven subsisting registrations, and a further pending application.[1] The TESS page for these registrations is attached hereto as Exhibit A. There are at least eight variations in spelling of terms having the pronunciation, whether the hyphen is included or not. These variations further include:

I-SIGHT	I-CITE	I-CYTE	I-SITE
EYE-SIGHT	EYE-CITE	EYE-CYTE	EYE-SITE

While not all of these are the subject of extensive trademark usage, the I-Sight term of the asserted registration is presently included in three subsisting registration (as well as three now cancelled registrations including the same term[2]), and the same term, without the hyphen, is the subject of a further three subsisting registrations (as well as another now cancelled registration including the same term) (See Exhibits B and C, attached hereto). “iCite” is included in two now cancelled registrations, as well as one pending application claiming actual use in commerce. (See Exhibit D, attached hereto.) “iCyte” is included in five subsisting registrations, to two separate registrants (See Exhibit E, attached hereto.) “I-Cyte” is included in a pending application claiming actual use in commerce (See Exhibit F, attached hereto). “Eyecite” was included in one now cancelled registration (See Exhibit G, attached hereto). “Eyesite” is included in three subsisting registrations to three separate registrants(as well as another now cancelled registration including the same term) (See Exhibit H, attached hereto). “Isite” is included in nine subsisting registrations (as well as three now cancelled registrations including the same term) (See Exhibit I, attached hereto). Finally, “I-Site” itself is included in five subsisting registrations (as well as two now cancelled registrations including the same term) (See Exhibit J, attached hereto). While this list is not exhaustive of the extensive usage of trademarks in commerce using an element having the \E^Ä«-ËEsÄ«t\ pronunciation, it clearly demonstrates that a large number of differing marks co-exists with the same phonetic pronunciation, such that the similarity of the phonetic pronunciation is at best a weak element with respect to the trademark significance of the marks.

Accordingly, while a phonetic similarity is present between Applicant’s mark and the asserted

registration, the inherent weakness of the phonetic pronunciation of the marks at issue cannot be dispositive of the analysis under the *Dupont* factors.

## **2. The Appearances of the Marks Differ**

The Examining Attorney further posited that the presence of the “i” formative as a prefix to both marks created a visual similarity between the respective marks. Again, as discussed above, at least 25 subsisting registrations include the “i” prefix, such that it alone is at best a weak element. Indeed, the Trademark Trial and Appeal Board has held that the “i” prefix does not alone constitute a distinguishing element. See *In re Zanova, Inc.*, 59 USPQ2d 1300 (TTAB 2000) (ITOOL merely descriptive of computer software for use in creating web pages, and custom designing websites for others).

Contrarily, the applied for mark is “I-SITE”, while the registered marks is for “I-SIGHT”. When the minimal impact of the “i” prefix is properly accommodated, it is clear that the spelling is different, and that the impact of that difference in spelling creates a much shorter mark, which in view of the plethora of similar co-existing marks, and in view of the differences in the meanings and connotations of the mark, clearly does not support a likelihood of confusion between the marks based on any purported “visual similarity.”

Accordingly, the visual differences between the marks when properly evaluated, in view of the weakness of the phonetic similarity resultant from the plethora of “i” marks, clearly weighs against the marks being considered sufficiently similar.

## **3. The Meanings of the Marks Differ**

As noted, there are several terms with similar phonetic sounds, yet each of these terms have different meanings. “Sight” is clearly related to vision. See, e.g., Merriam Webster Definition of “Sight”, <http://www.merriam-webster.com/dictionary/sight> (A copy of which is attached hereto as Exhibit K). “Cite” has the meaning of “to call upon officially or authoritatively.” See, e.g., Merriam Webster Definition of “cite”, <http://www.merriam-webster.com/dictionary/cite> (A copy of which is attached hereto as Exhibit L). “Cyte” is a medical term, usually used as a suffix, having the meaning of cell or cellular. See, e.g., Merriam Webster Definition of “cyte”, <http://www.merriam-webster.com/dictionary/sight> (A copy of which is attached hereto as Exhibit M). Finally, “site” has the commonly understood definition



of a place or a location, i.e., the site of a new building, or an internet location. *See, e.g.,* Merriam Webster Definition of “site”, <http://www.merriam-webster.com/dictionary/site> (A copy of which is attached hereto as Exhibit N).

The cited registration includes the formative “sight”, meaning a visual event, while “site” clearly refers to a place or location. These meanings, and the associated connotations, are clearly distinct and create different mental impressions, as a result of the different meanings and connotations. Further, in view of the additional co-existing “cyte” and “cite” formative marks, consumers are highly sensitized to key on differences in the marks to discriminate between them, otherwise the presence in the marketplace of so many marks having similar phonetic pronunciations would have resulted in chaos. Accordingly, the distinction between the marks as a result of their meanings and connotations clearly weighs against the marks being considered similar.

#### **4. The Commercial Impressions of the Mark Differ**

As a result of the differences in the meanings of the applied for mark and the mark of the cited registration, the commercial impressions created by the marks likewise differ. As noted, “sight” refers to vision, i.e., a clear ability to see. “Site”, contrarily, refers to a location or place, and is frequently associated with internet activities, such as web *sites*. Accordingly, the distinction between the commercial impressions created by the respective marks clearly weighs against the marks being considered similar.

#### **5. Evaluation of the Similarity, Meaning, and Commercial Impression Factors Does Not Suggest that the Marks Are “Similar”**

##### **in the Context of a Likelihood of Confusion Analysis.**

As discussed above, the marks clearly have different meanings and commercial impressions. While the marks are phonetically similar, that phonetic similarity is very weak at best, as a result of the plethora of \E^Ä«-ËCsÄ«t\ marks. Visually, the marks are distinct as a result of the length of the dominant terms of the marks (“site” versus “sight”), especially in view of the proper analysis of the “i” prefix, and the differing reactions to the marks imposed by the differing meanings. Accordingly, proper analysis of the similarity of the marks does not suggest a likelihood of confusion between the marks.

#### **C. The Dis-Similarity of the Recited Services**

The asserted ‘143 I-SIGHT registration extends over three classes, class 009 for software (a good), class 035 for professional services, and class 042 for providing software design services. Applicant’s mark is used in both class 035, for providing marketing services, and in class 042, for

developing software for others.

With respect to Class 042, the asserted registration contains the recitation “computer software design for others; technical support services, namely, troubleshooting of computer hardware and software problems via telephone, e-mail and in-person; database development services.” Applicant’s recitation in class 042 comprises “design and development of computer software and applications for others; design and development of computer software of computer software and applications; design and development of computer software for portable devices.”

While on its face, these services are clearly related, it is also clear that the writing of software, even if limited to for others, is an extremely broad field, and in and of itself serves as a poor comparison point between the marks, for the very reason that so many companies exist which write software to a lesser or greater extent (including whether consumers expect an entity which sells software to also write software), many of which use some form of the phonetically pronounced “eye sight” mark, such as the marks discussed further below. In particular, a review of the specimens associated with the asserted ‘143 I-SIGHT registration demonstrates that the only services associated with “computer software design for others” for Customer Expressions Corp., the owner of the ‘143 I-SIGHT registration, is: “Customization i-Sight™ is a very flexible system that can accommodate most business processes and requirements. If, however, you have very specific requirements that are not currently available, Customer Expressions can quickly customize i-Sight™ for you.”[3] (Specimen of January 22, 2008, attached hereto as Exhibit O. ) Accordingly, consumers are unlikely to be confused as to source or affiliation between Applicant’s development of stand-alone software packages for others, and the asserted registration under which the registrant offers nothing other than modification of Registrant’s existing software packages, used solely for monitoring customer satisfaction, as further evidenced by the class 009 recitation. Thus, the purported relatedness of the goods does not weigh for a finding of a likelihood of confusion, but rather is at best neutral with respect to whether a likelihood of confusion would be present.

#### **D. The Dissimilarity Between the Channels of Trade**

Again, and as discussed above, the products of the ‘143 I-SIGHT registration are focused on customer satisfaction research, and in particular to the sale of computer programs for accomplishing customer satisfaction research (albeit with the option of having the purchased software customized by the vendor.) Applicant’s services are the writing of custom computer programs and applications for others, and accordingly, is directed towards entities needing custom software to be written. Registrants services

are confined to modifying Registrant's existing software for its clients who have already purchased its customer satisfaction management software. Thus, the channels of trade between Applicant's services and the services of the recited registration differ significantly, and this factor again weighs against a finding of a likelihood of confusion.

**E. The Sophistication of the Consumers**

Contrary to the assertions of the Examining Attorney, consumers of the respective services of Applicant, and the goods of the registrant, are clearly sophisticated consumers, as a result of the significant cost of customer satisfaction research software, offered by registrant, and custom software packages and applications, the services offered by Applicant. While it is true that they may not be experts in trademark law, there is nothing to suggest that they do not spend significant time considering who they will retain to obtain expensive services. Furthermore, the very difference in the character of the two businesses demonstrates that these sophisticated purchasers would not expect a relation between the two businesses: one writes custom software, while the other offers customization of its existing customer satisfaction management software. It would clearly be apparent to purchasers that these were different entities, not only as a result of the differences in the marks themselves, but in the differences of the services actually offered. Again, this factor weighs against the finding of a likelihood of confusion.

**F. The Degree of Care Expected to be Exercised by Consumers**

It is clear that both the software packages offered by registrant, as well as the software writing services of Applicant, are expensive propositions (i.e., are not purchases made on a whim). Thus, consumers of the respective goods and services may be readily presumed to exercise due care in selecting who they purchase customer satisfaction research from, or who they contract software development from. Again, in view of the differences of the marks, this factor weighs against a finding of a likelihood of confusion.

#### **G. The Fame, or Lack Thereof, of the Cited Registration**

No evidence is of record of the fame of the asserted registration. While the registration itself demonstrates constructive knowledge of the asserted registration, it does not confer fame or any strong consumer association or recognition. In the absence of any such evidence, no analysis of this factor can be undertaken, and the factor must be considered neutral, neither weighing for or against a likelihood of confusion.

#### **H. A Plethora of Similar Marks are Both In Use and Have Been in Use on Similar Services**

Consideration of the plethora of similar marks in use on similar services is critical to proper evaluation of the likelihood of confusion. Where a large number of marks are in use on similar and related services, it must be presumed that the scope of recognition of consumers of one particular mark is not that strong, i.e., the co-existence of two marks for similar services creates the presumption that consumers already distinguish between those marks.

At the outset, it must be noted that the Examining Attorney takes the position that the existence of evidence demonstrating that the same entity provides both software itself as well as software writing services demonstrates the relatedness of the goods and services. Final Office Action, pg. 3. While the Examining Attorney relies on this rule for establishing the relatedness of the goods and services of the respective application and asserted registration, the Examining Attorney does not consider this with respect to the plethora of third party registrations having the same pronunciation. Indeed, the Examining Attorney states “This evidence establishes that the same entity commonly provides the relevant services, namely, software design, development, troubleshooting, and database development, under the same mark, through the same channels of trade and to the same classes of consumers.” This statement itself demonstrates the relatedness of the third party registrations previously cited. Applicant further believes that the purported distinction with respect to relatedness of software sold through class 009 versus software written for others in class 042 is illusory. Software, whether written then sold, or sold then written, or provided as downloadable code through the internet, remains a computer program, written by a software developer or a programmer. That the same party frequently provides both software as a good, as well as “software design for others”, is evident not only in the recitation of the asserted registration which notes that it provides customization of the software it sells. Other evidence of this relatedness includes

U.S. Trademark Registration Ser. No. 4,202,201 for CONIX, including both software as a good and software design as a service (attached hereto as Exhibit P), U.S. Trademark Registration Ser. No. 4,201,222 for R4I BUILDPOINT, including both software as a good and software design as a service (attached hereto as Exhibit Q), U.S. Trademark Registrations Ser. No. 3,989,229 and Ser. No. 3,989,226 for EMPTORIS, including both software as a good and software design as a service (attached hereto as Exhibits R and S), U.S. Trademark Registration Ser. No. 4,196,779 for CORFIRE, including both software as a good and software design as a service (attached hereto as Exhibit T), etc.

Indeed, the trademark office now recognizes two additional forms of software, software as a service (see, e.g., U.S. Reg. No. 4,196,144, Exhibit U attached hereto), and downloadable software. While these remain variations on delivery of a software product, these “new” recitations are classed in International Class 042, highlighting that the same goods, dependant only on their delivery method, may be classed in either class 009 or class 042, and as shown in U.S. Reg. 4,197,116 for MYECHAIN are also associated with software development services (See Exhibit V, attached hereto); see also U.S. Reg. No. 4,196,809 for “Tree Design” (Exhibit W, attached hereto); *see also* U.S. Reg. No. 4,195,353 for “SecCommerce” (Exhibit X, attached hereto); *see also* U.S. Reg. No. 4,191,656 for SNAP LOGIC (Exhibit Z, attached hereto). That these forms of software are all frequently seen coming from single sources is common sense: they each originate from someone writing software. Accordingly, denigrating the third party usages previously cited by Applicant solely on the basis of whether they are delivered under class 009 or class 042 is inapt.

U.S. Reg. No. 2,352,200 for ISITE (a copy of which is attached hereto as Exhibit AA) for **computer programs** for the commercial real estate market registered in 2000, before the filing date of the asserted registration. Notwithstanding the overlap in class 009 software, nor the relatedness of software development services, the asserted registration was registered, and the usages have co-existed for approximately 12 years, further conditioning consumers to distinguish between \E^Ä«-ËEsÄ«t\ pronounced marks.

U.S. Reg. No. 2,753,458 for ISITE (a copy of which is attached hereto as Exhibit AB) for **user interface software** for handling medical information registered in 2003, after the filing date of the asserted registration. Notwithstanding the similarity in Class 009 software, nor the relatedness of software development services to software itself, the asserted registration was registered, and the usages have co-existed for approximately 12 years, further conditioning consumers to distinguish between \E^Ä«-ËEsÄ«t\

pronounced marks.

U.S. Registrations No. 2,942,627 for ICITE and No. 2,940,557 for “iCite” (Design) (copies of which are attached hereto as Exhibit AC and AD) for **database hosting and construction** were registered in spite of the existence of the asserted registration. Based on the Examining Attorney’s earlier argument, database construction is not only understood to be related to software development, but identical to the “database development services” in the asserted registration. Yet the registrations for ICITE and “iCite”, having the same phonetic pronunciation, were not seen as likely to be confused with the asserted “I-SIGHT” registration. These registrations co-existed with the asserted registration for approximately seven years, further conditioning consumers to distinguish between \E^Ä«-ËEsÄ«t\ pronounced marks.

U.S. Reg. Nos. 3,976,295 for ICYTE (a copy of which is attached hereto as Exhibit AE) for providing **non-downloadable software interfaces**, 3,653,871 for ICYTE for **computer software** (a copy of which is attached hereto as Exhibit AF), 3,706,744 for “iCyte” (design) for providing **software interfaces** (a copy of which is attached hereto as Exhibit AG), and 3,706,744 for “iCyte” (design) for **computer software** (a copy of which is attached hereto as Exhibit AH) for computer software all registered to iCyte Pty Ltd. interfaces between 2009 and 2011, long after the registration date of the asserted registration. Notwithstanding the similarity in Class 042 software, the class 009 software, nor the relatedness of software development services to software itself, the asserted registrations were registered, and the usages have co-existed for approximately the last 4 years, further conditioning consumers to distinguish between \E^Ä«-ËEsÄ«t\ pronounced marks.

While the grant of a registration to other marks does not give rise to a per se argument of registrability, as the office takes the illogical position that it is not bound by its own decisions, it does at a minimum demonstrate the conditioning of consumers, in this case with respect to phonetic similarity. Even though each of these marks had the same pronunciation, overlapped at least with respect to goods in class 009, yet they all registered notwithstanding the existences of each other, and have co-existed for a long period. All are pronounced the same way. The examples above are not the only co-existing registrations, as discussed in Applicant’s prior Response, and accordingly, the co-existence of the registrations clearly demonstrates that the phonetic similarity of the marks is not relevant let alone dispositive of the likelihood of confusion analysis, especially as each of the above registrations contains at a minimum related services, and in some cases identical services. Thus, the only purported point of

similarity, i.e., the phonetic similarity, is not controlling, as a plethora of similarly pronounced marks, for similar and identical services, has existed for a long time, demonstrating that consumers do not consider the pronunciation alone when considering the marks. Thus, when the visual difference between the marks are considered, as well as the differences in meaning and commercial impression, as the only point of similarity is the indistinct pronunciation which consumers do not consider dispositive, as evidenced by the many factors weigh against a potential likelihood of confusion.

**I. There has Been No Actual Confusion,**

**in Almost Twelve Years of Concurrent Use**

As noted in the attached declaration, Applicant has been in business and using its mark openly and notoriously since 1996. *See* Declaration of Ian Cross, (attached hereto as Exhibit AJ). *See also* Amendment to Allege Use (attached hereto as Exhibit AK). Applicant registered its domain name in 1998 (see NSI Whois Results for [www.i-site.com](http://www.i-site.com), attached hereto as Exhibit AL). Mr. Cross, the chief executive officer of Applicant since its inception, is aware of no instances of actual confusion, notwithstanding that Customer Expression began its use of the its I-SIGHT mark in 2000, twelve years ago, and four years after I-Site began using its mark.

The coexistence of the marks in the marketplace for twelve years clearly demonstrates the absence of a likelihood of confusion. That both Applicant and Customer Expression have co-existed, with no disputes against each other, clearly demonstrates the absence of a likelihood of confusion, as well as provides another data point regarding consumer conditioning with respect to the marks pronounced marks.

**J. The Extent to Which Registrant Can Exclude Others from Using  
“i” Pronounced Marks is Severely Constrained by the Plethora of  
“i” Pronounced Marks in the Marketplace**

As noted above, a plethora of marks using the “i” pronunciation for similar or identical goods or services exists in the marketplace. The use of some of these marks began prior to registrant’s adoption of its I-SIGHT mark, and accordingly rules of seniority preclude registrant from asserting its mark against them. With respect to other registrations, the junior marks have now been in use for such long times that equity would preclude registrant from preventing their continued usage. Indeed, as Applicant is the senior common law user as between the applied for mark and the asserted registration, while Applicant cannot cancel the asserted registration, registrant would likewise be precluded from enjoining Applicant’s continued use of its mark. Contrarily, Applicant would be precluded from enjoining registrant, likewise under rules of equity in view of the long concurrent usages of the respective marks. Accordingly, this factor weighs heavily against the potential for a likelihood of confusion.

**K. Proper Weighing of the Factors**

**Precludes the Conclusion That Confusion is Likely**

Thus, in view of the above, and the arguments raised in the prior responses, it is clear that proper weighing of the above factors does not result in a showing of a likelihood of confusion, and accordingly, Applicant believes the present application is in condition for allowance. The weakness of the “i” pronunciation, in view of the limited significance of the “i” prefix, clearly mandate the conclusion that the differences in visual presentation, meaning, and commercial impression preclude a likelihood of confusion in view of the extensive usage of similar sounding marks in the marketplace. The dissimilarity between the channels of trade, and the expected sophistication of the respective consumers, and the resultant care they would be expected to apply in deciding whether to purchase customer satisfaction research software, or to have a custom computer program or application prepared for themselves, clearly demonstrate that confusion between the marks is unlikely. Furthermore, the simple fact that no actual confusion has arisen in the twelve years in which the usages have co-existed, confirms this conclusion. No likelihood of confusion is present.

While the Examining Attorney has relied on the contention that any doubt as to registrability is weighed against Applicant with respect to Section 2(d) rejections, this position is inequitable here, where



Applicant's belief that no confusion was likely weighed in their decision not to object to the registration of the mark now cited against them, notwithstanding that they were the senior user. Allowing registrant to take advantage of this belief, to their own advantage, is conversely inequitable in that they did not raise any challenge to Applicant's use of the mark [4], which would have precluded them from obtaining Section 15 incontestable status if they believed a likelihood of confusion to exist. Now imposing this presumption against the senior user is contrary to the policy behind the presumption, and thus the presumption is inapt here.

### **CONCLUSION**

Based on the above factors, Applicant respectfully submits that Applicant's mark will not likely be confused with the cited registration. Accordingly, Applicant respectfully requests the Examining Attorney withdraw his refusal to register Applicant's mark under Section 2(d) and favorable action is respectfully requested. Applicant also respectfully requests the courtesy of a telephone interview should the Examining Attorney have any additional questions with respect to this application.

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[1] Applicant notes that while the Examining Attorney will challenge the relevance of these registrations on the grounds that the similarity of services is not discussed here, Applicant notes that forms of marks having the common \E^Ä«-ËEsÄ«t\ pronunciation for the similar or the same goods and services are discussed further below in Section 3G.

[2] While the cancelled registrations do not evidence present co-existence, they evidence both that such marks have been used in commerce, and that consumers have become conditioned to discriminate between the marks through exposure to them.

[ 3 ] Indeed, the Examining Attorney rejected the submitted specimens as not demonstrating use of the mark in a Final Office Action. Customer Expressions argued that a "Case Study" describing the creation of a "process map" constituted "computer software design for others", evidencing just how broadly the term can be mis-construed.

[4] Registrant remains free to oppose Applicant's application once the application has been published, however the prior usage of I-SITE by Applicant would either result in a finding of no likelihood of confusion, or a concurrent use proceeding, resulting in reformation of the recitation contained in the asserted registration.

### **EVIDENCE**

Evidence in the nature of Exhibits A - F Exhibits G - M Exhibits N - T Exhibits U - AC Exhibits AD - AH Exhibits AJ - AL has been attached.

**Original PDF file:**

[evi\\_67109845-182222197\\_. Exh A-F.pdf](#)

**Converted PDF file(s) (13 pages)**

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[Evidence-10](#)

[Evidence-11](#)

**SIGNATURE(S)**

**Request for Reconsideration Signature**

Signature: /Carl H. Pierce/ Date: 09/10/2012

Signatory's Name: Carl H. Pierce

Signatory's Position: Attorney of Record, PA Bar Member

Signatory's Phone Number: 215-851-8100

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power

of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77750175

Internet Transmission Date: Mon Sep 10 18:35:07 EDT 2012

TEAS Stamp: USPTO/RFR-67.109.84.5-201209101835074873

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## EXHIBIT A



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Current Search: S1: (eyesight)[COMB] docs: 47 occ: 97

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	85473948	4174983	SMARTISIGHT	TARR	LIVE
2	85528023		EYESIGHT OVERNIGHT	TARR	LIVE
3	85284784	4070063	EYESIGHT	TARR	LIVE
4	85076798		OPTOMETRIC EYESITE INC.	TARR	DEAD
5	85277071	4055811	EYESIGHT FASHION & LUXURY EVENTS	TARR	LIVE
6	85186069	4001834	OPERATION EYESIGHT UNIVERSAL FOR ALL THE WORLD TO SEE	TARR	LIVE
7	85186057	4001833	OPERATION EYESIGHT	TARR	LIVE
8	79018722		EYESIGHT	TARR	DEAD
9	78676183	3148108	ISITE	TARR	LIVE
10	78950615	3469769	ISITE	TARR	LIVE
11	78773929	3314124	SIGHT FOR STUDENTS A VSP PROGRAM	TARR	LIVE
12	78773886		SIGHT FOR STUDENTS A VSP PROGRAM	TARR	DEAD
13	78689650		EYESITE	TARR	DEAD
14	78591300		EYESITE	TARR	DEAD
15	78578876	3269417	ISITE NETWORKS	TARR	LIVE
16	78572523		ISITE	TARR	DEAD
17	78535086		INSIGHT BEYOND EYESIGHT	TARR	DEAD
18	78526286	3228582	PRESERVING YOUR EYESIGHT IS OUR VISION	TARR	LIVE
19	78341742		OPERATION EYESIGHT UNIVERSAL FOR ALL THE WORLD TO SEE	TARR	DEAD
20	78134515	2695937	XIAN ADVISORS	TARR	DEAD
21	78116964		EYESIGHT TONIC	TARR	DEAD
22	77864167		ISITE CAMERAS	TARR	DEAD

23	77820603		EYE-SITE	TARR	DEAD
24	77608153	3706744	ICYTE	TARR	LIVE
25	77608149	3706743	ICYTE	TARR	LIVE
26	77573594		EYECYTE	TARR	DEAD
27	77571118		GETISIGHT	TARR	DEAD
28	77455409		EYESIGHT	TARR	LIVE
29	77339557		GLOBAL EYESIGHT	TARR	DEAD
30	77228428		EYEZYTE	TARR	DEAD
31	77191530		EYESIGHT RX	TARR	DEAD
32	76555754	2915791	EYESIGHTS	TARR	LIVE
33	76342563		DON'T LET YOUR EYESIGHT BE AN OVERSIGHT	TARR	DEAD
34	76342562		DON'T LET YOUR EYESIGHT BE AN OVERSIGHT	TARR	DEAD
35	76342561		DON'T LET YOUR EYESIGHT BE AN OVERSIGHT	TARR	DEAD
36	76261268		LA VUE	TARR	DEAD
37	76126526		OPERATION EYESIGHT UNIVERSAL	TARR	DEAD
38	76005635		EYESITE.COM	TARR	DEAD
39	75761229	2891474	ISITES@PNCBANK	TARR	DEAD
40	75982950	2763125	ISITES@PNCBANK	TARR	DEAD
41	75704444		I.SIGHT	TARR	DEAD
42	75686256	2771937	UV123 PROTECTING EYESIGHT FOR A LIFETIME	TARR	DEAD
43	75525745		EYESIGHT	TARR	DEAD
44	75451715		QUICK AS A FOX THE GAME FOR QUICK REFLEXES AND EYESIGHT	TARR	DEAD
45	75182950		THE EYESIGHTS	TARR	DEAD
46	75038899	2278608	ERNIE EYESIGHT	TARR	LIVE
47	73494318		THE SCHOOL OF BETTER EYESIGHT	TARR	DEAD

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Current Search: S1: (i-sight)[COMB] docs: 13 occ: 21

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	78956069	3409233	I-SITE	TARR	LIVE
2	78504318	3146609	RSP I-SITE	TARR	LIVE
3	78504312	3143286	RSP I-SITE	TARR	LIVE
4	78504302	3146608	RSP I-SITE	TARR	LIVE
→ 5	78071653	2681143	I-SIGHT	TARR	LIVE
6	77750175		I-SITE	TARR	LIVE
→ 7	76499326	2814757	I-SIGHT	TARR	LIVE
8	76114021		I-SIGHT DOMAIN	TARR	DEAD
9	76114004		I-SIGHT ENTERPRISE	TARR	DEAD
↖ 10	76113893	2589632	I-SIGHT DISCOVERY	TARR	DEAD
→ 11	75178481	2101512	I-SIGHT	TARR	LIVE
↖ 12	74243117	1787893	I-SIGHT 20/20	TARR	DEAD
↖ 13	73042640	1022430	I-SIGHT	TARR	DEAD

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Current Search: S2: (isight)[COMB] docs: 14 occ: 28

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	85588313		ISIGHT	TARR	LIVE
2	85650617		ISIGHT	TARR	LIVE
→ 3	85353170	4155639	ISIGHT	TARR	LIVE
→ 4	78751764		ISIGHT	TARR	DEAD
→ 5	78288760	3146199	ISIGHT	TARR	LIVE
6	78475011		ISIGHT	TARR	DEAD
7	78048824		ISIGHT	TARR	DEAD
8	77589688		ISIGHT	TARR	DEAD
9	77280895		ISIGHT	TARR	DEAD
→ 10	77139678	3799922	ISIGHT PARTNERS	TARR	LIVE
11	77139676		ISIGHT SECURITY	TARR	DEAD
12	76148309		ISIGHT 360	TARR	DEAD
13	75602325		ISIGHT	TARR	DEAD
C 14	75592086	2313952	ISIGHT++	TARR	DEAD

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	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	85594619		ICITE	TARR	LIVE
2	76486850	2942627	ICITE	TARR	DEAD
3	76486851	2940557	ICITE	TARR	DEAD
4	75156665		ICITE	TARR	DEAD

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Current Search: S6: (icyte)[COMB] docs: 5 occ: 10

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	78156012	2925751	ICYTE	TARR	LIVE
2	77608059	3976295	ICYTE	TARR	LIVE
3	77608153	3706744	ICYTE	TARR	LIVE
4	77608149	3706743	ICYTE	TARR	LIVE
5	77608061	3653871	ICYTE	TARR	LIVE

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# I-CYTE

**Word Mark**

I-CYTE

**Goods and Services**

IC 042. US 100 101. G &amp; S: Computer services, namely, creating an on-line community for registered users to participate in social discussions, organize social events and engage in social and community networking. FIRST USE: 20120131. FIRST USE IN COMMERCE: 20120131

**Standard Characters Claimed****Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Serial Number**

85532375

**Filing Date**

February 2, 2012

**Current Basis**

1A

**Original Filing Basis**

1A

**Owner**

(APPLICANT) Leal, Jimmy Jay INDIVIDUAL UNITED STATES 262 Normandy St Houston TEXAS 77015

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Live/Dead Indicator**

LIVE

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# Eyecite

<b>Word Mark</b>	EYECITE
<b>Goods and Services</b>	(CANCELLED) IC 028. US 002 022. G & S: tackle boxes and racks with tubular compartments for storing and organizing fishing tackle. FIRST USE: 19900814. FIRST USE IN COMMERCE: 19901220
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	21.03.25 - Archery arm guards; Athletic supporters; Badminton shuttlecocks (birdies); Bags, punching; Balance beams (gymnastic); Basketball backboards; Basketball hoops; Batons, twirling; Billiard cue sticks; Boxing bags; Catcher's mask; Cues, billiard; Decoys, hunting; Diving boards; Face masks (sports); Face Masks, catcher's; Fins, swim; Goal posts, football; Gym bars (jungle gyms, monkey bars); Gymnastic apparatus; Handgrips, exercise; Hockey pucks; Horse apparatus (gymnastic); Masks, athletic; Masks, catcher's; Masks, fencing; Masks, scuba; Pads, protection (athletic); Parallel bars; Playground equipment; Pool cues; Pucks; Scuba fins or flippers; Scuba masks; Scuba snorkels; Shuttlecocks, badminton birdies; Supporters, athletic; Swim fins; Swim masks; Tees, kicking; Tennis ball throwers (mechanical device); Tetherball game; Trampolines; Twirling batons; Vaulting horses, gymnastic 27.03.05 - Objects forming letters or numerals
<b>Serial Number</b>	74130849
<b>Filing Date</b>	January 16, 1991
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	November 5, 1991
<b>Registration</b>	1673544

**Number**  
**Registration Date** January 28, 1992  
**Owner** (REGISTRANT) Borawski, Douglas G. INDIVIDUAL UNITED STATES 7256 Aqua Isle Algonac MICHIGAN 48001  
**Description of Mark** The color gold is claimed for the hook design in the letter "Y".  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** DEAD  
**Cancellation Date** August 4, 1998

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	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	85076798		OPTOMETRIC EYESITE INC.	TARR	DEAD
2	78862895		EYESITES	TARR	DEAD
3	78689650		EYESITE	TARR	DEAD
4	78591300		EYESITE	TARR	DEAD
5	78055885	2639608	ISITE	TARR	DEAD
6	78028650		EYESITE LASER CENTERS	TARR	DEAD
7	78028648		EYESITE	TARR	DEAD
8	77921556	3840962	EYESITE	TARR	LIVE
9	77052812	3513119	EYESITE	TARR	LIVE
10	76155046		EYESITE	TARR	DEAD
11	76105419		EYESITE	TARR	DEAD
12	76006130		EYESITE.COM	TARR	DEAD
13	76005635		EYESITE.COM	TARR	DEAD
14	75132232		EYESITE	TARR	DEAD
15	75059407		EYESITE	TARR	DEAD
16	74095361	1698320	EYESITE	TARR	LIVE
17	74339870		EYESITE	TARR	DEAD

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	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	85553183		SITESENTINEL ISITE	TARR	LIVE
2	85553187		ISITE	TARR	LIVE
3	85477599		ISITE-VISUAL SOFTWARE	TARR	LIVE
4	78676183	3148108	ISITE	TARR	LIVE
5	78950615	3469769	ISITE	TARR	LIVE
6	78578876	3269417	ISITE NETWORKS	TARR	LIVE
7	78572523		ISITE	TARR	DEAD
8	78558128		ISITE	TARR	DEAD
9	78407859		ISITE	TARR	DEAD
10	78055885	2639608	ISITE	TARR	DEAD
11	77864167		ISITE CAMERAS	TARR	DEAD
12	77786860	3878561	ISITES	TARR	LIVE
13	77466832	3833305	ISITE	TARR	LIVE
14	77466818	3833304	ISITE	TARR	LIVE
15	77181109		ISITE	TARR	DEAD
16	76629468	3169241	ISITE	TARR	LIVE
17	75761229	2891474	ISITES@PNCBANK	TARR	DEAD
18	75982950	2763125	ISITES@PNCBANK	TARR	DEAD
19	75842053	2753458	ISITE	TARR	LIVE
20	75764895	2810884	ISITES	TARR	DEAD
21	75206648	2352200	ISITE	TARR	LIVE
22	75071523		ISITE	TARR	DEAD

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	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
→	1 78956069	3409233	I-SITE	TARR	LIVE
→	2 78679765		I-SITE	TARR	DEAD
→	3 78504318	3146609	RSP I-SITE	TARR	LIVE
→	4 78504312	3143286	RSP I-SITE	TARR	LIVE
→	5 78504302	3146608	RSP I-SITE	TARR	LIVE
	6 78167759		I-SITE	TARR	DEAD
	7 77750175		I-SITE	TARR	LIVE
→	8 77593175	3747596	I-SITE XP	TARR	LIVE
	9 77567770		I-SITE	TARR	DEAD
	10 76610261		I-SITE	TARR	DEAD
	11 76158937		I-SITE FOR THE INFORMED BUYER	TARR	DEAD
C	12 74712475	2432438	I-SITE	TARR	DEAD
	13 74637466		I-SITE	TARR	DEAD
C	14 74439091	1893530	I-SITE	TARR	DEAD

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54 ENTRIES FOUND.

- 1) sight (noun)
- 2) sight (verb)
- 3) sight (adjective)

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'sight *noun* \ˈsīt\

Definition of SIGHT

Like

- 1 : something that is seen : SPECTACLE
- 2 **a** : a thing regarded as worth seeing —usually used in plural <the *sights* of the city>  
**b** : something ludicrous or disorderly in appearance <you look a *sight*>
- 3 **a** *chiefly dialect* : a great number or quantity  
**b** : a good deal : LOT <a far *sight* better> <not by a damn *sight*>
- 4 **a** : the process, power, or function of seeing; *specifically* : the physical sense by which light stimuli received by the eye are interpreted by the brain and constructed into a representation of the position, shape, brightness, and usually color of objects in space  
**b** : mental or spiritual perception  
**c** : mental view; *specifically* : JUDGMENT
- 5 **a** : the act of looking at or beholding  
**b** : INSPECTION, PERUSAL  
**c** : VIEW, GLIMPSE  
**d** : an observation to determine direction or position (as by a navigator)
- 6 **a** : a perception of an object by or as if by the eye <never lost *sight* of the objective>  
**b** : the range of vision <was nowhere in *sight*>
- 7 : presentation of a note or draft to the maker or draftee : DEMAND
- 8 **a** : a device that aids the eye in aiming or in finding the direction of an object



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Ideas Worth Thinking About

Top 10 Words for Useful & Intriguing  
Concepts



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& More Word Wisdom

Favorite Quotations About Words, Vol. 2

**b plural** : ASPIRATION <set her *sights* on a medical career>

- **in sight**  
: at or within a reasonable distance or time
  - **on sight**  
: as soon as seen <ordered to shoot *on sight*>
  - **out of sight**
    - 1 : beyond comparison
    - 2 : beyond all expectation or reason
    - 3 —used as a generalized expression of approval
  - **sight for sore eyes**  
: one whose appearance or arrival is an occasion for joy or relief
- ☒ See sight defined for English-language learners »  
 See sight defined for kids »

#### Examples of SIGHT

She regained *sight* in her left eye.

The officers were ordered to *shoot on sight*.

Keep *out of sight* until I tell you it's OK to come out.

The child wandered *out of sight*.

Don't let the puppy *out of your sight*.

The rabbit *disappeared from sight* into the tall grass.

The controls are *hidden from sight* behind a panel.

#### Origin of SIGHT

Middle English, from Old English *gesiht* faculty or act of sight, thing seen; akin to Old High German *gisiht* sight, Old English *sēon* to see

First Known Use: before 12th century

#### Related to SIGHT

**Synonyms:** company, presence

**Antonyms:** ace, bit, dab, dram, driblet, glimmer, handful, hint, lick, little, mite, mouthful, nip, ounce, peanuts, pinch, pittance, scruple, shade, shadow, smidgen (*also* smidgeon or smidgin or smidge), speck, spot, sprinkle, sprinkling, strain, streak, suspicion, tad, taste, touch, trace

[+] more

#### Rhymes with SIGHT

bight, bite, blight, bright, byte, cite, dight, dite, fight, flight, fright, height, hight, kite, knight, krait, kyte, light, lite, might,...

[+] more

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7 comments

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Laura Lin

I did my homework and I saw this word "sights".

Reply · Like · January 5 at 4:36pm



Munda Singh

Kewton SC

Reply · Like · August 17, 2011 at 1:09am



Irada Ehmedova · University of Foreign Languages, Baku  
in the article about UFO.

Reply · 1 · Like · June 26, 2011 at 12:58am



Renz Buscato

WOW!

Reply · Like · September 3, 2011 at 4:22am



Marlene Schiffman · New York, New York

"a popular tourist sight"--found on a children's book.

Reply · Like · March 21, 2011 at 7:49am

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cite

vt \ˈsaɪt\

cit-ed cit-ing

Definition of CITE

- 1 : to call upon officially or authoritatively to appear (as before a court)
- 2 : to quote by way of example, authority, or proof <*cites* several noteworthy authors>
- 3 **a** : to refer to; *especially* : to mention formally in commendation or praise  
**b** : to name in a citation
- 4 : to bring forward or call to another's attention especially as an example, proof, or precedent <*cited* the weather as a reason for canceling the picnic>

— cit-able *adjective*

Examples of CITE

The article *cites* several experts on the subject.

The museum had often been *cited* as an example of successful fund-raising.

He *cited* evidence suggesting she was in the area when the crime was committed.

She was *cited* for reckless driving.

Origin of CITE

Middle English, from Anglo-French *citer* to cite, summon, from Latin *citare* to put in motion, rouse, summon, from frequentative of *ciere* to stir, move — more at -KINESIS

First Known Use: 15th century

Related to CITE

**Synonyms:** adduce, quote, instance, mention

[+] more

See Synonym Discussion at summon



MORE QUIZZES



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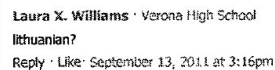
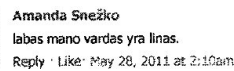
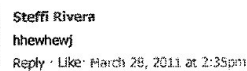
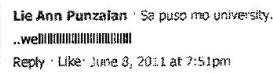
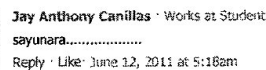
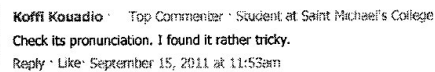
bight, bite, blight, bright, byte, dight, dite, fight, flight, fright,  
height, high, kite, knight, krait, kyte, light, lite, might,  
mite,...  
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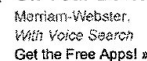
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-cyte *noun combining form*

Definition of -CYTE

: cell <leukocyte>

Origin of -CYTE

New Latin -*cyta*, from Greek *kytos* hollow vessel

Learn More About -CYTE

Medical Dictionary: Definition of "-cyte"

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**Rick Martin** · Lincoln High School, Wisconsin Rapids, WI  
taking a medical terminology class in college.

Reply · 1 · Like · May 14 at 7:57pm

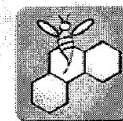
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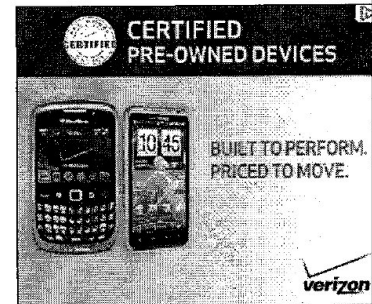
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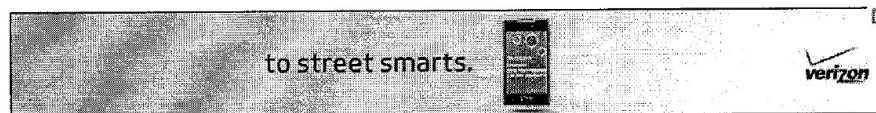


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2) site (transitive verb)  
site index (noun)

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'site   *noun* \ˈsit\

Definition of SITE

Like

1 **a** : the spatial location of an actual or planned structure or set of structures (as a building, town, or monuments)  
**b** : a space of ground occupied or to be occupied by a building

2 **a** : the place, scene, or point of an occurrence or event <a picnic *site*>  
**b** : one or more Internet addresses at which an individual or organization provides information to others <an FTP *site*>; *especially* : WEB SITE

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Examples of SITE

Hard hats must be worn on the construction *site*.  
They visited the *site* of their future house.  
The company has chosen a new *site* for its office building.  
the *site* of the battle  
Federal investigators combed through the crash *site*.

Origin of SITE

Middle English, place, position, from Anglo-French or Latin;  
Anglo-French *sit*, *site*, from Latin *situs*, from *sinere* to leave, allow  
First Known Use: 14th century


Related to SITE


**Synonyms:** emplacement, locale, locality, location, locus, point, position, place, spot, venue, where  
(+) more

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## Other Building Terms

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## Rhymes with SITE

bight, bite, blight, bright, byte, cite, dight, dite, fight, flight,  
fright, height, hight, kite, knight, krait, kyte, light, lite,  
might,...  
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Thesaurus: All synonyms and antonyms for "site"

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## 7 comments

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**Kyle Jeremy Andrew Hickson** · Decon at Upper Room Ministries  
wat?

Reply · Like · October 12, 2011 at 5:57pm



**Nicola Swindells** · Trainee Clinical Scientist at The Christie NHS  
Foundation Trust

Searched Google for 'siting' to ensure it was actually a word as my computer doesn't recognise it, and at the top of the results page is the Merriam-Webster definition:

"siting - present participle of sit (Verb).

1. Adopt or be in a position in which one's weight is supported by one's buttocks... etc."

I think you have a broken link here somewhere, it returns the wrong definition to Google under siting, yet links to the correct page here for the verb to site.

Reply · Like · August 24, 2011 at 1:57pm



**Marc G Ceaser** · Rutgers

I had inadvertently mixed up siting with citing.  
@Jacob: Thanks!

Reply · Like · August 10, 2011 at 9:35am



**Gary Reid** · Rancho High School

developing an area plan for my community need correct spelling and to find out if siting is a word.

Reply · Like · June 27, 2011 at 4:17pm



**Jacob Reid** · Beatty High School

If you are referring to "the people are sitting on a bench" then its Sitting. If you mean "Citing Acknowledgments" then its Citing as in Citation of Credit. - Matt (hope that helped)

Reply · 1 · Like · June 29, 2011 at 1:34am



**Wenceslao Zapata**

Similarity with German word "Seite" in "Webseite". I looked up for the origin in case both of them had a common source.

Reply · Like · July 16, 2011 at 4:46am

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## EXHIBIT O

## Products

*i-Sight*<sup>™</sup> allows employees or customers and partners to submit issues directly over the web

- *i-Sight*<sup>™</sup> has no client side downloads
- *i-Sight*<sup>™</sup> provides intuitive navigation for new and non technical users
- *i-Sight*<sup>™</sup> is maintained and upgraded by Customer Expressions as part of the monthly fee
- *i-Sight*<sup>™</sup> uses the latest security tools available
- *i-Sight*<sup>™</sup> is fully scalable to grow and adapt with your company

Customer Expressions provides full support including customization, training and consulting. *i-Sight*<sup>™</sup> is a Feedback Management System that will enable your organization to respond quickly and accurately to customer requests submitted through any channel, while empowering all levels of the organization to quickly analyze feedback trends. Feedback is collected from staff or directly from customers using adaptable web based capture forms. Once feedback has been captured *i-Sight*<sup>™</sup> provides the tools required to manage your tasks and ensure that no issues go unresolved. The objective of *i-Sight*<sup>™</sup> is not only to provide better fire fighting tools, but to provide intelligence to managers so that they can work to solve the root causes of problems.

*i-Sight*<sup>™</sup> is a system that requires absolutely no client-side downloads and is accessed through any standard web browser connected to the Internet or your Intranet. This software delivery model eliminates investment in hardware or software and there are no personnel or maintenance costs to use the Customer Expressions *i-Sight*<sup>™</sup> system. Installation does not require use of your I.T. Resources, as the administration functions within the system have been designed to be simple and easy to use for non-technical staff.

The *i-Sight*<sup>™</sup> system is made up of three modules:

### CAPTURE

- o Web-based feedback submission forms
- o Automatic e-mail acknowledgement thanking customer
- o Appropriate staff members notified via e-mail

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### CASE MANAGEMENT

- o Complete view of customer
- o E-mail actions (including form letters)
- o Automatic reminders & escalations
- o Complete audit trail

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### REPORTS

- o Live data accessed over the web
- o Quickly generate reports
- o Understand trends & root causes

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## Service

Our mission is to provide the tools and counsel needed to enable organizations to collect, manage, understand and take action based on feedback from their customers and partners.

### TRAINING

At Customer Expressions we understand that finding the time to train staff how to use a new system can be difficult. That's why we have designed training courses that can be completed on-line. This allows trainees to learn at times that are convenient for them.

We also provide training courses on-site or via teleconference in order to get your staff trained in a timely and cost effective manner.

### CUSTOMIZATION

*i-Sight*™ is a very flexible system that can accommodate most business processes and requirements. If however, you have very specific requirements that are not currently available Customer Expressions can quickly customize i-Sight™ for you.

### INTEGRATION

In today's competitive business world it is essential to have a unified view of the customer/ partner. Customer Expressions has extensive experience working with many different databases and platforms and is able to integrate i-Sight™ with any ODBC compliant database.

### CONSULTING

In order to gain the highest return on investment possible it is essential that managers use the information generated by *i-Sight*™ to improve their decision making. Good information clears the path to the right decision.

Our consulting services focus around how to gather and interpret feedback from customers, members, citizens and partners. We help managers put together action plans for customer retention initiatives, conduct analysis of revenue at risk and potential ROI on specific tactical actions.

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# CONIX

**Word Mark  
Goods and  
Services**

CONIX

IC 009. US 021 023 026 036 038. G & S: Computer software for use in the banking industry or financial environment, namely, software for processing and internal tracking of checks, bank drafts and financial documents; computer software used in financial transactions; all with instructional manuals thereof and sold as a unit. FIRST USE: 19910815. FIRST USE IN COMMERCE: 19910815

IC 041. US 100 101 107. G &amp; S: Training services in the field of computer hardware and software; Training in the use of computer hardware and software in area of payment processing and financial transactions. FIRST USE: 19920000. FIRST USE IN COMMERCE: 19920000

IC 042. US 100 101. G & S: Application service provider, namely, hosting, managing, developing, analyzing, and maintaining applications, software and websites of others in the fields of payment processing and financial transactions; Application service provider (ASP) featuring software for use in payment processing and financial transactions; Computer software consulting; Consultancy in the field of software design; consulting services in the field of software as a service (SAAS); Computer software development; Installation, maintenance and repair of computer software; Technical support, namely, monitoring of network systems; Technical support, namely, providing back-up computer programs and facilities; Technical support services, namely, troubleshooting of computer software problems. FIRST USE: 19920000. FIRST USE IN COMMERCE: 19920000**Standard  
Characters  
Claimed****Mark Drawing  
Code**

(4) STANDARD CHARACTER MARK



**Serial Number** 85527203  
**Filing Date** January 27, 2012  
**Current Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** June 19, 2012  
**Registration Number** 4202201  
**Registration Date** September 4, 2012  
**Owner** (REGISTRANT) Conix Systems, Inc. CORPORATION TEXAS P.O. Box 2327 Manchester Center VERMONT 05255  
**Attorney of Record** John A. Tang  
**Prior Registrations** 4066419  
**Type of Mark** TRADEMARK. SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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# R4I BUILDPOINT

**Word Mark** R4I BUILDPOINT**Goods and Services**

IC 009. US 021 023 026 036 038. G & S: Recorded computer operating programs; computer software designed to estimate resource requirements; computer software for developing lists, tables, databases, spreadsheets and reports in the field of asset configuration, asset management, asset monitoring and asset maintenance, including parts management, that may be downloaded from a global computer network; computer software for authorizing access to data bases; computer software for business purposes, specifically for developing lists, tables, databases, spreadsheets and reports in the field of asset configuration, asset management, asset monitoring and asset maintenance, including parts management; computer software packages, products and programs in the nature of software for developing lists, tables, databases, spreadsheets and reports in the field of asset configuration, asset management, asset monitoring and asset maintenance, including parts management; computer software programs for database management; data processing software; packaged software specifically for developing lists, tables, databases, spreadsheets and reports in the field of asset configuration, asset management, asset monitoring and asset maintenance, including parts management; downloadable electronic publications in the nature of database reports, computer software operating manuals, newsletters, reports, articles, press releases, education and training guides, advertising materials and videos in the field of asset configuration, asset management, asset monitoring and asset maintenance, including parts management. FIRST USE: 20101120. FIRST USE IN COMMERCE: 20101120

IC 016. US 002 005 022 023 029 037 038 050. G & S: Printed matter, namely, computer software operating manuals, education and training guides and advertising materials namely, printed advertising boards of paper and paper advertisements in the nature of marketing banners, promotional publications in the nature of brochures, newsletter, information sheets, leaflets and flyers relating to computer software. FIRST USE: 20101120. FIRST USE IN COMMERCE: 20101120

IC 042. US 100 101. G & S: Design, maintenance and updating of computer software; computer programming analysis; computer software design; computer software development; computer software engineering; computer software programming services; computer support services, namely, troubleshooting in the nature of diagnosing computer hardware, peripherals and software problems; computer support services, namely, 24/7 online service desk/help desk services for IT infrastructure, operating systems, database systems and web applications; information technology (IT) services, namely, consultation, advisory and information services; installation and maintenance of computer software; software creation; software engineering; upgrading of computer software; writing of computer software; technical data analysis services relating to the field of asset configuration, asset management, asset monitoring and asset maintenance, including parts management; development of systems for the transmission and storage of data; providing temporary use of online non-software for developing lists, tables, databases, spreadsheets and reports in the field of asset configuration, asset management, asset monitoring and asset maintenance, including parts management; information, consultancy and advisory services in relation to the aforementioned services; providing information, including online about all the aforementioned services. FIRST USE: 20101120. FIRST USE IN COMMERCE: 20101120

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 85445531

**Filing Date** October 12, 2011

**Current Basis** 1A

**Original Filing Basis** 1A;44D

**Published for Opposition** June 19, 2012

**Registration Number** 4201222

**Registration Date** September 4, 2012

**Owner** (REGISTRANT) Absolute Data Group Pty Ltd CORPORATION AUSTRALIA Level 4 383 Wickham Terrace, Spring Hill Queensland AUSTRALIA 4000

**Attorney of Record** Mark I. Reichenthal

**Description of Mark** Color is not claimed as a feature of the mark.

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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<b>Word Mark</b>	EMPTORIS
<b>Translations</b>	The wording "Emptoris" has no meaning in a foreign language.
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Computer e-commerce software for use in facilitating electronic business transactions over an on-line global information network. FIRST USE: 20000301. FIRST USE IN COMMERCE: 20000301
	IC 042. US 100 101. G & S: Computer programming services. FIRST USE: 20000301. FIRST USE IN COMMERCE: 20000301
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	01.11.02 - Moons, crescent; Moons, half; Partial moons, including half moons and crescent moons (not a moon with craters) 26.05.21 - Triangles that are completely or partially shaded
<b>Serial Number</b>	85169006
<b>Filing Date</b>	November 4, 2010
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	April 19, 2011
<b>Registration Number</b>	3989229
<b>Registration Date</b>	July 5, 2011

**Owner** (REGISTRANT) Emptoris, Inc. CORPORATION DELAWARE 200 Wheeler Road Burlington MASSACHUSETTS 01803

(LAST LISTED OWNER) INTERNATIONAL BUSINESS MACHINES CORPORATION AKA IBM CORPORATION CORPORATION NEW YORK NEW ORCHARD ROAD ARMONK NEW YORK 10504

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** L Stephen McCready

**Prior Registrations** 2719720;2722025

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of crescent moon facing right intersected by a left pointing shaded isosceles triangle followed by geometric latin characters spelling "Emptoris".

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# Emptoris

<b>Word Mark</b>	EMPTORIS
<b>Translations</b>	The wording "Emptoris" has no meaning in a foreign language.
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Computer e-commerce software for use in facilitating electronic business transactions over an on-line global information network. FIRST USE: 20000301. FIRST USE IN COMMERCE: 20000301  IC 042. US 100 101. G & S: Computer programming services. FIRST USE: 20000301. FIRST USE IN COMMERCE: 20000301
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85168962
<b>Filing Date</b>	November 4, 2010
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	April 19, 2011
<b>Registration Number</b>	3989226
<b>Registration Date</b>	July 5, 2011

**Owner** (REGISTRANT) Emptoris, Inc. CORPORATION DELAWARE 200 Wheeler Road Burlington  
MASSACHUSETTS 01803

(LAST LISTED OWNER) INTERNATIONAL BUSINESS MACHINES CORPORATION AKA IBM  
CORPORATION CORPORATION NEW YORK NEW ORCHARD ROAD ARMONK NEW YORK  
10504

**Assignment  
Recorded** ASSIGNMENT RECORDED

**Attorney of  
Record** L Stephen McCready

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Live/Dead  
Indicator** LIVE

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**Word Mark** CORFIRE CF

**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Software for use with cell phones, tablet computers, mobile devices, and handheld digital electronic devices for performing electronic payment, electronic banking, storage of credit, debit and gift card information, electronic ticketing, electronic couponing, electronic person-to-person (P2P) payments, online stock trading, mobile value added services, and loyalty card functions; Software for over-the-air and over-the-wire provisioning of applications to mobile devices and handheld digital electronic devices by means of wireless and wired networks; Security software for mobile device applications and mobile devices; Software for transmitting data to and managing mobile device SIM cards, SD cards, and secure elements in the nature of Smartcard computer chips. FIRST USE: 20110526. FIRST USE IN COMMERCE: 20110526

IC 038. US 100 101 104. G & S: Electronic transmission of data in the nature of transmitting data to mobile device SIM cards, SD cards, and secure elements in the nature of Smartcard computer chips. FIRST USE: 20110526. FIRST USE IN COMMERCE: 20110526

IC 042. US 100 101. G & S: IT consulting services; Computer systems integration services; Development and maintenance of computer software for others; Installation of computer software for others; Testing of mobile commerce services of others in a data center, namely, testing of computer software used for mobile commerce transactions; Computer software testing services for others. FIRST USE: 20110526. FIRST USE IN COMMERCE: 20110526

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code** 26.01.02 - Circles, plain single line; Plain single line circles  
26.17.02 - Bands, wavy; Bars, wavy; Lines, wavy; Wavy line(s), band(s) or bar(s)

26.17.06 - Bands, diagonal; Bars, diagonal; Diagonal line(s), band(s) or bar(s); Lines, diagonal  
27.03.01 - Geometric figures forming letters, numerals or punctuation

**Serial Number** 85327786  
**Filing Date** May 23, 2011  
**Current Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** June 12, 2012  
**Registration Number** 4196779  
**Registration Date** August 28, 2012  
**Owner** (REGISTRANT) SK C&C CO., LTD. CORPORATION REPUBLIC OF KOREA SK U-TOWER 25-1, JEONGJA-DONG, BUNDANG-GU SEONGNAM-SI, GYEONGGI-DO REPUBLIC OF KOREA  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** Charles G. Zug  
**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of "corfire" with a stylized design representing the letters "c" and "f" to the upper right.  
**Type of Mark** TRADEMARK. SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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# READABILITY

**Word Mark  
Goods and  
Services****READABILITY**IC 009. US 021 023 026 036 038. G & S: **Downloadable** computer application software for personal computers and mobile devices that allow a user to save and archive articles published online and to remove extraneous material from said articles. FIRST USE: 20090301. FIRST USE IN COMMERCE: 20090301

IC 042. US 100 101. G &amp; S: Software as a service (SaaS) featuring non-downloadable computer application software for personal computers and mobile devices that allow a user to save and archive articles published online and to remove extraneous material from said articles. FIRST USE: 20090301. FIRST USE IN COMMERCE: 20090301

**Standard  
Characters  
Claimed****Mark Drawing  
Code**

(4) STANDARD CHARACTER MARK

**Serial Number**

85413775

**Filing Date**

September 2, 2011

**Current Basis**

1A

**Original Filing  
Basis**

1A

**Date Amended to  
Current Register**

June 25, 2012

**Registration**

4196144



**Number****Registration Date** August 21, 2012**Owner** (REGISTRANT) Readability LLC LIMITED LIABILITY COMPANY DELAWARE 747 3rd Avenue,  
30th Floor New York NEW YORK 10017**Attorney of  
Record** Christopher L. Sorey**Type of Mark** TRADEMARK. SERVICE MARK**Register** SUPPLEMENTAL**Live/Dead  
Indicator** LIVE

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# MYECHAIN

Word Mark MYECHAIN  
Goods and Services

IC 009. US 021 023 026 036 038. G & S: software for processing electronic payments to and from others and instructions provided therewith; software for providing secure commercial transactions and payment options using handheld computers or mobile electronic devices at a point of sale; user authentication software; authentication software, namely, software for use in authenticating user accounts; software for providing access to applications and services through handheld computers and mobile electronic devices for use in retail sales; computer software platforms for mobile electronic devices, namely, software for uploading, storing, organizing and managing personal retail card, membership card, gift card, reward card and credit/debit card information; software for managing personal retail card, membership cards, gift card, reward card and credit/debit card information through computer, mobile and data networks, and instructions therefor; software for enabling consumers to make purchases with personal retail cards, membership cards, gift cards, reward cards and credit/debit cards via handheld computers and mobile electronic devices; software for reading bar codes and QR codes. FIRST USE: 20110521. FIRST USE IN COMMERCE: 20110521

IC 035. US 100 101 102. G & S: Promoting the sale of goods and services of others by providing hypertext links to the web sites and mobile applications of others; providing special offers, price comparison information, discount information and coupons for products and services for use by consumers; consumer comparison shopping services through global computer, mobile and data networks; providing databases containing consumer information relating to products, services and merchants; rating services, namely, real time on-line customized rating of businesses who offer goods and services on a global computer network; conducting surveys to compile data about businesses and consumers; providing business and market research information, namely, business and market research reports. FIRST USE: 20110521. FIRST USE IN COMMERCE: 20110521

IC 042. US 100 101. G & S: Computer software development in the field of applications for computers, mobile phones, smart phones and portable electronic devices; application service provider, namely, hosting, managing, developing, and maintaining applications, software, and web sites, in the fields of personal productivity, wireless communication, mobile information access, mobile payments and remote data management for the delivery of information to and from computers, mobile phones, smart phones and portable electronic devices; providing price comparisons customized based on the known or estimated geographical location of Internet, mobile telephone or other wired or wireless digital network based customer users; providing non-downloadable computer software applications for managing personal retail card, membership cards, gift card, reward card and credit/debit card information, via computer, mobile and data networks; platform as a service (PAAS) featuring computer software web-based platforms for uploading, storing, organizing and managing personal retail card, membership card, gift card, reward card and credit/debit card information. FIRST USE: 20110521. FIRST USE IN COMMERCE: 20110521

**Standard  
Characters  
Claimed**

**Mark**

**Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 85394776

**Filing Date** August 10, 2011

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** June 12, 2012

**Registration Number** 4197116

**Registration Date** August 28, 2012

**Owner** (REGISTRANT) Krause, Mitchel INDIVIDUAL UNITED STATES 86 Elkwood Ave New Providence NEW JERSEY 07974

**Attorney of Record** Jerald Tenenbaum

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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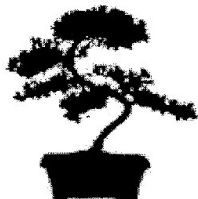
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**Goods and Services** IC 009. US 021 023 026 036 038. G & S: computer software development tools; downloadable computer software for use in cloud computing. FIRST USE: 20110105. FIRST USE IN COMMERCE: 20110105

IC 041. US 100 101 107. G & S: training services in the fields of computer software, computer hardware, software development, web sites, virtualization technologies, cloud computing, information systems and computer services. FIRST USE: 20110105. FIRST USE IN COMMERCE: 20110105

IC 042. US 100 101. G & S: Computer software development; computer services, namely, hosting computer software applications of others; cloud computing featuring software for use in virtualized environment for hosting operating systems, applications, web sites and services; providing temporary use of online non-downloadable software for use in cloud computing. FIRST USE: 20110105. FIRST USE IN COMMERCE: 20110105

**Mark Drawing Code** (2) DESIGN ONLY

**Design Search Code** 05.01.25 - Cypress tree; Other trees or bushes; Willow tree

**Serial Number** 85338661

**Filing Date** June 6, 2011

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** June 12, 2012

**Registration Number** 4196809  
**Registration Date** August 28, 2012  
**Owner** (REGISTRANT) Nodejitsu Inc. CORPORATION DELAWARE 135 E 27th Street New York NEW YORK 10016  
**Attorney of Record** Aaron Hendelman  
**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of image of a bonsai tree.  
**Type of Mark** TRADEMARK. SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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## EXHIBIT X





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# SecCommerce

**Word Mark**    SECCOMMERCE**Goods and Services**

IC 009. US 021 023 026 036 038. G & S: Software and downloadable software that protects and secures the integrity of data, computer networks and applications, facilitates secure system integration, authentication, gateways, workflow, and archiving, provides public key infrastructures (PKI), connects to existing public key infrastructures, permits access to data by generating access codes, verifies access codes, authenticates users, issues and manages digital user identities and access privileges, safeguards digital files, provides online identity protection, online transaction security and protection against fraud, all for stationary and mobile computers and computer systems, mobile phones, portable devices, and handheld computers for use by government agencies, social insurance carriers, financial services organizations, health care organizations, insurance carriers, telecommunications providers, internet service providers, and others in the field of electronic commerce and information technology; software for the encryption and decryption of digital files or integrating cryptographic security features into other software applications. FIRST USE: 20000921. USED IN ANOTHER FORM The mark was first used anywhere in a different form other than that sought to be registered at least as early as 09/21/2000. FIRST USE IN COMMERCE: 20000921

IC 042. US 100 101. G & S: Computer programming and software design; computer software development in the field of system integration, secure authentication, gateways, workflow, and archiving, providing public key infrastructures (PKI), and the connection to existing public key infrastructures; internet security services, namely, internet data encryption services; providing information concerning the encryption and authentication of electronic data; providing temporary use of a web-based software application for communications security; encryption and decryption of data and communications. FIRST USE: 20000921. USED IN ANOTHER FORM The mark was first used anywhere in a different form other than that sought to be registered at least as early as 09/21/2000. FIRST USE IN COMMERCE: 20000921

IC 045. US 100 101. G & S: Internet security services, namely, providing an internet trust center, namely, computer security assurance and administration of digital keys and digital certificate. FIRST USE: 20000921. FIRST USE IN COMMERCE: 20000921

**Standard Characters Claimed****Mark**

**Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 85201066

**Filing Date** December 17, 2010

**Current Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** September 20, 2011

**Registration Number** 4195353

**Registration Date** August 21, 2012

**Owner** (REGISTRANT) SecCommerce Technologies Inc. CORPORATION CALIFORNIA c/o GACC 1 Embarcadero Center, Suite 1060 San Francisco CALIFORNIA 94111

**Attorney of Record** Dr. Siegmur Pohl

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# snapLogic

**Word Mark** SNAPLOGIC

**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Computer software for application, data, and database integration and integration of cloud computing environments; computer software for data communications between application programs, networked data sources and cloud computing environments. FIRST USE: 20110516. FIRST USE IN COMMERCE: 20110516

IC 035. US 100 101 102. G & S: Operating an online marketplace featuring interoperability and integration software tools that enable data and database integration, integration and interoperability of networked applications and databases, and integration of cloud computing environments for the purpose of managing the data and workflow between them. FIRST USE: 20110516. FIRST USE IN COMMERCE: 20110516

IC 042. US 100 101. G & S: Computer services, namely, providing application, data and database integration, and integrating networked applications, databases, and cloud computing environments for the purpose of managing the workflow between them; integration of cloud computing environments; Providing temporary use of on-line non-downloadable software and applications for development of interoperability and integration software tools that enable data and database integration, and integration and interoperability of networked applications, databases, and cloud computing environments for the purpose of managing the data and workflow between them; Providing temporary use of on-line non-downloadable software and applications for use in the integration of cloud computing environments. FIRST USE: 20110516. FIRST USE IN COMMERCE: 20110516

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design** 26.01.02 - Circles, plain single line; Plain single line circles

**Search Code** 26.17.01 - Bands, straight; Bars, straight; Lines, straight; Straight line(s), band(s) or bar(s)  
26.17.05 - Bands, horizontal; Bars, horizontal; Horizontal line(s), band(s) or bar(s); Lines, horizontal  
27.03.01 - Geometric figures forming letters, numerals or punctuation

**Serial Number** 85311542

**Filing Date** May 3, 2011

**Current Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** September 20, 2011

**Registration Number** 4191656

**Registration Date** August 14, 2012

**Owner** (REGISTRANT) SnapLogic, Inc. CORPORATION DELAWARE 71 E. Third Avenue, Second Floor  
San Mateo CALIFORNIA 94401

**Attorney of Record** Lynn M. Humphreys

**Prior Registrations** 3781530

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the word "SNAPLOGIC", in lower case except for the "L", with a horizontal line connecting the "O" to the top portion of the "G", and the bottom portion of the "G" depicted in a stylized manner composed of a vertical line connected to a circle.

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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## Typed Drawing

<b>Word Mark</b>	ICITE
<b>Goods and Services</b>	(CANCELLED) IC 042. US 100 101. G & S: Litigation support services, namely claims management and processing, on-site document acquisition, image encoding, cybercourt services, database hosting and construction, electronic discovery services, trial preparation and support, information technology infrastructure services, animated trail graphics, staff augmentation, and expert forensic services. FIRST USE: 20030101. FIRST USE IN COMMERCE: 20030101
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76486850
<b>Filing Date</b>	January 31, 2003
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	November 25, 2003
<b>Registration Number</b>	2942627
<b>Registration Date</b>	April 19, 2005
<b>Owner</b>	(REGISTRANT) ASPEN SYSTEMS CORPORATION CORPORATION DELAWARE 2277 RESEARCH BOULEVARD ROCKVILLE MARYLAND 20850
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Christopher P. Nierman
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead</b>	DEAD

**Indicator**

**Cancellation  
Date**      November 25, 2011

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<b>Word Mark</b>	ICITE
<b>Goods and Services</b>	(CANCELLED) IC 042. US 100 101. G & S: Litigation and legal support services, namely claims management and processing, on-site document acquisition, image encoding, cybercourt services, database hosting and construction, electronic discovery services, trial preparation and support, information technology infrastructure services, animated trial graphics, staff augmentation, and expert forensic services. FIRST USE: 20030101. FIRST USE IN COMMERCE: 20030101
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	26.17.07 - Heat, lines depicting; Lines depicting speed, propulsion, heat or wind; Propulsion, lines depicting; Speed, lines depicting; Wind, lines depicting 26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved 26.17.25 - Other lines, bands or bars
<b>Serial Number</b>	76486851
<b>Filing Date</b>	January 31, 2003
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	May 18, 2004
<b>Registration Number</b>	2940557
<b>Registration Date</b>	April 12, 2005

**Owner** (REGISTRANT) ASPEN SYSTEMS CORPORATION CORPORATION DELAWARE 2277  
RESEARCH BOULEVARD ROCKVILLE MARYLAND 20850

**Assignment  
Recorded** ASSIGNMENT RECORDED

**Attorney of  
Record** Christopher P. Nierman

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead  
Indicator** DEAD

**Cancellation  
Date** November 18, 2011

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## Typed Drawing

<b>Word Mark</b>	ISITE
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: computer programs for site selection and trade area demographic analysis for the commercial real estate industry; and computer mapping software for locating and displaying site and market characteristics for the commercial real estate industry. FIRST USE: 19970114. FIRST USE IN COMMERCE: 19970114
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75206648
<b>Filing Date</b>	December 2, 1996
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	May 19, 1998
<b>Registration Number</b>	2352200
<b>Registration Date</b>	May 23, 2000
<b>Owner</b>	(REGISTRANT) Geonomics, Inc. CORPORATION MASSACHUSETTS 44 Bromfield Street Boston MASSACHUSETTS 02108  (LAST LISTED OWNER) GEOVUE INC. CORPORATION MASSACHUSETTS 401 Congress Avenue, Suite 2650 Austin TEXAS 78701
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Daniel J. Bourque
<b>Type of Mark</b>	TRADEMARK

**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090912.  
**Renewal** 1ST RENEWAL 20090912  
**Live/Dead Indicator** LIVE

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<b>Word Mark</b>	ISITE
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: User interface software for medical informatics systems; namely, software to permit a user to retrieve, display, and browse medical images and medical information. FIRST USE: 20000119. FIRST USE IN COMMERCE: 20000119
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75842053
<b>Filing Date</b>	November 5, 1999
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	July 2, 2002
<b>Registration Number</b>	2753458
<b>Registration Date</b>	August 19, 2003
<b>Owner</b>	(REGISTRANT) Stentor, Inc. CORPORATION DELAWARE 5000 Marina Blvd Brisbane CALIFORNIA 94005  (LAST LISTED OWNER) KONINKLIJKE PHILIPS ELECTRONICS N.V. CORPORATION NETHERLANDS GROENEWOUDSEWEG 1 EINDHOVEN NETHERLANDS
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Edward Blocker, Edward W. Goodman, Robert J. Kraus, David L. Barnes, Michael E. Marion, Jack E. Haken
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL



**Affidavit Text**    SECT 15. SECT 8 (6-YR).  
**Live/Dead Indicator**    LIVE

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# ICYTE

**Word Mark** ICYTE

**Goods and Services** IC 042. US 100 101. G & S: computer services, namely, providing nondownloadable software interfaces available over a network in order to index, annotate, tag and comment upon webpages and other electronically stored information; computer services, namely, providing nondownloadable software interfaces available over a network in order to compile information, publish and collaborate; extraction and retrieval of information by means of global computer networks; creating indexes of web sites and other electronic information resources in connection with global computer network; providing information at the specific request of end-users from searchable databases of information, including text, electronic documents and databases, by means of global computer information networks; providing use of software applications through a personalized web page interface featuring user-defined information, which includes search engines and online web links to other web sites; and providing electronic services enabling users to manage, annotate, save, share, search for, browse, and relocate information available on the internet and on other public and private computer networks. FIRST USE: 20080713. FIRST USE IN COMMERCE: 20080713

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 77608059

**Filing Date** November 5, 2008

**Current Basis** 1A;44E

**Original Filing Basis** 1A;44D  
**Published for Opposition** March 29, 2011  
**Registration Number** 3976295  
**Registration Date** June 14, 2011  
**Owner** (REGISTRANT) iCyte Pty Ltd CORPORATION AUSTRALIA 9 Hooper Road Wonga Park VIC AUSTRALIA 3115  
**Attorney of Record** James E. Geringer  
**Priority Date** June 27, 2008  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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# ICYTE

<b>Word Mark</b>	ICYTE
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Computer software for searching, compiling, notating, tagging, indexing and organizing information on computer networks; computer software for creating indexes of web sites; computer software for collaboration involving the review of textual and graphic materials; computer software for publishing annotations to text and graphic content accessed electronically; mouse pads. FIRST USE: 20080713. FIRST USE IN COMMERCE: 20080713
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Trademark Search Facility Classification Code</b>	LETS-1   A single letter, multiples of a single letter or in combination with a design
<b>Serial Number</b>	77608061
<b>Filing Date</b>	November 5, 2008
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A;44D
<b>Published for Opposition</b>	April 28, 2009
<b>Registration</b>	3653871

**Number**  
**Registration Date** July 14, 2009  
**Owner** (REGISTRANT) iCyte Pty Ltd CORPORATION AUSTRALIA 9 Hooper Road Wonga Park VIC AUSTRALIA 3115  
**Attorney of Record** James E. Geringer  
**Priority Date** June 27, 2008  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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<b>Word Mark</b>	<b>ICYTE</b>
<b>Goods and Services</b>	IC 042. US 100 101. G & S: Computer services, namely, providing software interfaces available over a network in order to index, annotate, tag and comment upon webpages and other electronically stored information; computer services, namely, providing software interfaces available over a network in order to compile information, publish and collaborate; extraction and retrieval of information by means of global computer networks; creating indexes of web sites and other electronic information resources in connection with global computer network; providing information from searchable databases of information, including text, electronic documents and databases, by means of global computer information networks; providing use of software applications through a personalized web page interface; and providing electronic services enabling users to manage, annotate, save, share, search for, browse, and relocate information available on the Internet and on other public and private computer networks. FIRST USE: 20090500. FIRST USE IN COMMERCE: 20090600
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	02.11.02 - Eyes, human; Human eyes; Iris (eye) 24.09.01 - Flags, rectangular or square, excluding American flag or checkered flag 24.09.25 - Bunting (flags); Flags, signal; Other flags 29.01.07 - Inconspicuous designs functioning as punctuation or parts of letters; Small, inconspicuous design elements functioning as punctuation or parts of letters
<b>Trademark Search Facility Classification Code</b>	ART-24.09 Flags, banners HUM Accurate representation of a human form, or any portion of a human form LETS-1   A single letter, multiples of a single letter or in combination with a design LETTER-3-OR-MORE CYTE Combination of three or more letters as part of the mark SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons SHAPES-MISC Miscellaneous shaped designs
<b>Serial Number</b>	77608153

**Filing Date** November 5, 2008  
**Current Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** April 7, 2009  
**Registration Number** 3706744  
**Registration Date** November 3, 2009  
**Owner** (REGISTRANT) iCyte Pty Ltd CORPORATION AUSTRALIA 9 Hooper Road Wonga Park VIC AUSTRALIA 3115  
**Attorney of Record** James E. Geringer  
**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of an eye shape within a waving flag above the letter "i" preceding the word "cyte".  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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## EXHIBIT AH



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<b>Word Mark</b>	ICYTE
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Computer software for searching, compiling, notating, tagging, indexing and organizing information on computer networks; computer software for creating indexes of web sites; computer software for collaboration involving the review of textual and graphic materials; computer software for publishing annotations to text and graphic content accessed electronically; mouse pads. FIRST USE: 20090500. FIRST USE IN COMMERCE: 20090600
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	02.11.02 - Eyes, human; Human eyes; Iris (eye) 24.09.01 - Flags, rectangular or square, excluding American flag or checkered flag 24.09.25 - Bunting (flags); Flags, signal; Other flags 29.01.07 - Inconspicuous designs functioning as punctuation or parts of letters; Small, inconspicuous design elements functioning as punctuation or parts of letters
<b>Trademark Search Facility Classification Code</b>	ART-24.09 Flags, banners HUM Accurate representation of a human form, or any portion of a human form LETS-1 I A single letter, multiples of a single letter or in combination with a design LETTER-3-OR-MORE CYTE Combination of three or more letters as part of the mark SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons SHAPES-MISC Miscellaneous shaped designs
<b>Serial Number</b>	77608149
<b>Filing Date</b>	November 5, 2008
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	April 7, 2009

**Registration Number** 3706743  
**Registration Date** November 3, 2009  
**Owner** (REGISTRANT) iCye Pty Ltd CORPORATION AUSTRALIA 9 Hooper Road Wonga Park VIC AUSTRALIA 3115  
**Attorney of Record** James E. Geringer  
**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of an eye shape within a waving flag above the letter "i" preceding the word "cyte".  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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## EXHIBIT AJ

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: I-Site, Inc.  
Mark: I-SITE  
Serial No: 77/750,175  
Filed: June 2, 2009  
International Class: 35, 42  
Examiner: Christine Cooper  
Law Office: 113  
Atty. Reference No: 07-40067-US

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DECLARATION OF IAN CROSS

I, Ian Cross, do hereby declare that:

1. I am the Chief Executive Officer of I-Site, Inc.
2. I-Site, Inc., was formed on May 28, 1999, and is the successor in interest to I-SITE Web Design, a partnership which began operations using its I-SITE trademark in January, 1996. The I-SITE mark has been in continuous use in commerce since January 1996, including through its website, www.I-Site.com, which was initially registered on November 25, 1998.
3. I have been employed by I-Site, Inc., and its predecessor in interest, I-Site Web Design, since January, 1996. I have been employed as the Chief Executive Officer of I-Site, Inc., since May 28, 1999, and was the Chief Executive Officer of I-Site Web Design from its inception until its reformation as I-Site, Inc.
4. During my involvement with I-Site, Inc., there have been no instances of consumer confusion between I-Site, Inc., and Custom Creations, Inc., the owner of United States Trademark Registration Ser. No. 2,681,143, of which I am aware.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application and any registration resulting therefrom.

Date: 9/10/2012

  
\_\_\_\_\_  
Ian Cross

## EXHIBIT AK



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: I-Site, Inc.  
Mark: I-SITE  
Serial No: 77/750,175  
Filed: June 2, 2009  
International Class: 35, 42  
Examiner: Christine H. Cooper  
Law Office: 110  
Atty. Reference No: 09-40122-US

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**AMENDMENT TO ALLEGE USE UNDER 37 C.F.R. § 2.76**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Madam:

Applicant respectfully requests registration of the above-identified mark in the United States Patent and Trademark Office on the Principal Register. This Amendment to Allege Use is being filed prior to the issuance of the Notice of Allowance.

Applicant is using the mark in commerce on or in connection with the following services:

- MARKETING, NAMELY, PROMOTING OR ADVERTISING THE GOODS AND SERVICES OF OTHERS; MARKETING, NAMELY, PROMOTING OR ADVERTISING SOFTWARE APPLICATIONS FOR OTHERS -class 35 and;**
- DESIGN AND DEVELOPMENT OF COMPUTER SOFTWARE AND APPLICATIONS FOR OTHERS; DESIGN AND DEVELOPMENT OF COMPUTER SOFTWARE AND APPLICATIONS; DESIGN AND DEVELOPMENT OF COMPUTER SOFTWARE FOR PORTABLE DEVICES- class 42.**

The mark was first used by applicant's predecessor in interest (I-Site Web Design) in connection with the services at least as early as 1996; was first used by applicant's predecessor in interest (I-Site Web Design) in interstate commerce in connection with the services at least as early as 1996; and is now in use in such commerce. Applicant is submitting three (3) specimens showing the mark as actually used in commerce on or in connection with the services.

Ian Cross declares that he is the founder and CEO of I-Site, Inc., that he is authorized to execute this Amendment to Allege Use; that Applicant believes itself to be the owner of the mark sought to be registered; that to the best of his knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce in either the identical form or in such near resemblance thereto as to be likely, when used on or in connection with the goods or services of such other person, firm, corporation or association to cause confusion, or to cause mistake, or to deceive; that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom.

**I-Site, Inc.**



By: Ian Cross  
Chief Executive Officer

Dated: 9/10/2012



## EXHIBIT AL

[Network Solutions](#) >> [Whois](#) >> Results

[Log In](#)



- [Search](#)
- [Renew](#)
- [Transfer](#)
- [Features](#)
- [Private Registration](#)
- [Protect](#)
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### WHOIS Results for i-site.com

Available domain names similar to i-site.com

Available Extensions

**i-site.us.com**  
**i-site.pro**  
**i-site.im**  
**i-site.co**

Available Domains

**pittsburgh-i-site.com**  
**i-site-net.com**  
**net-i-site.com**  
**i-site-porn.com**

Premium Resale Domains

sitekaitori.com	<b>\$1,795</b>
<b>i-sitedesign.com</b>	<b>\$577</b>
<b>gophersite.com</b>	<b>\$799</b>
<b>elektricity.net</b>	<b>\$488</b>
<b>i-site.asia</b>	
<b>i-site.xxx</b>	
<b>net-i-website.com</b>	
<b>i-website-net.com</b>	
<b>i-website-porn.com</b>	
<b>i-link-net.com</b>	
<b>net-i-link.com</b>	
<b>i-link-porn.com</b>	
<b>siteanonymizer.com</b>	<b>\$1,200</b>
<b>iwebsite.net</b>	<b>\$1,888</b>

arrangementsite.com

\$599

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i-site.com

Is this your domain name? [Renew it now.](#)[BOOKMARK](#)

**Current Registrar:** GODADDY.COM, LLC  
**IP Address:** 69.20.124.242 (ARIN & RIPE IP search)  
**Record Type:** Domain Name  
**Server Type:** Apache 2  
**Lock Status:** clientDeleteProhibited  
**WebSite Status:** Active

Whois Server Version 2.0

Domain names in the .com and .net domains can now be registered with many different competing registrars. Go to <http://www.internic.n> for detailed information.

Domain Name: I-SITE.COM  
Registrar: GODADDY.COM, LLC  
Whois Server: whois.godaddy.com  
Referral URL: <http://registrar.godaddy.com>  
Name Server: NS41.DOMAINCONTROL.COM  
Name Server: NS42.DOMAINCONTROL.COM  
Status: clientDeleteProhibited  
Status: clientRenewProhibited  
Status: clientTransferProhibited  
Status: clientUpdateProhibited  
Updated Date: 11-nov-2011  
Creation Date: 25-nov-1998  
Expiration Date: 24-nov-2013

&gt;&gt;&gt; Last update of whois database: Mon, 10 Sep 2012 19:26:01 UTC &lt;&lt;&lt;

NOTICE: The expiration date displayed in this record is the date the registrar's sponsorship of the domain name registration in the regist currently set to expire. This date does not necessarily reflect the e date of the domain name registrant's agreement with the sponsoring registrar. Users may consult the sponsoring registrar's Whois databa view the registrar's reported date of expiration for this registratic

TERMS OF USE: You are not authorized to access or query our Whois database through the use of electronic processes that are high-volume automated except as reasonably necessary to register domain names or modify existing registrations; the Data in VeriSign Global Registry Services' ("VeriSign") Whois database is provided by VeriSign for information purposes only, and to assist persons in obtaining information about or related to a domain name registration record. VeriSign does not guarantee its accuracy. By submitting a Whois query, you agree to abide by the following terms of use: You agree that you may use this Data only for lawful purposes and that under no circumstances will you use this Data to: (1) allow, enable, or otherwise support the transmission of mass unsolicited, commercial advertising or solicitations via e-mail, telephone or facsimile; or (2) enable high volume, automated, electronic processes that apply to VeriSign (or its computer systems). The compilation, repackaging, dissemination or other use of this Data is expressly prohibited without the prior written consent of VeriSign. You agree to use electronic processes that are automated and high-volume to access or query the Whois database except as reasonably necessary to register domain names or modify existing registrations. VeriSign reserves the right to restrict your access to the Whois database in its sole discretion to maintain operational stability. VeriSign may restrict or terminate your access to the Whois database for failure to abide by these terms of use. VeriSign reserves the right to modify these terms at any time.

The Registry database contains ONLY .COM, .NET, .EDU domains and Registrars.

The previous information has been obtained either directly from the registrant or a registrar of the domain name other than Network Solutions. Network Solutions, therefore, does not guarantee its accuracy or completeness.

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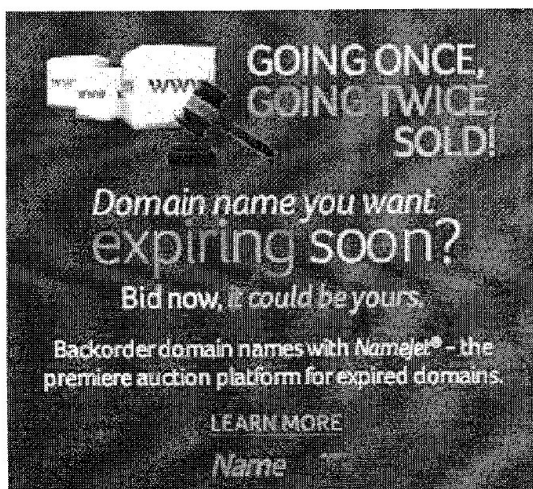
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- IP Address e.g. 205.178.187.13

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